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International Court of Justice

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Official Transript of the International Military Tribunal in the matter of the United States of America,, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 7 June 1946, 1000-1700, Lord Justice Lawrence presiding.

THE PRESIDENT: The Tribunal will adjourn this afternoo at 4:00 o' clock to sit in closed session. The Tribunal will sit tomorrow in opnen session from 10:00 to 1:00.

ALFRED JODL -- Resumed
CROSS EXAMINATION--Continued

BY COLONEL POKROVSKY:

Q You have testified that you were the Chief of the Operational Headquarters of the OKW. That was the central headquarters of the OKW, was it not?

A I could not quite comprehend the last part of your question.

Q I want to know whether the Operational Headquarters of the OKW, of which you were in charge, was the central operational headquarters, the direction body.

A Because of the significance of the activity, one can certainly say that the operational staff was one of the most important parts of the OKW.

Q Is that the reason why you took Keitel's place in his absence, because it was so important?

A I was the deputy only in operational matters. As to war ministerial questions, as a rule Admiral Canaris took that part of it.

Q Do you deny that you took Keitel's place when he was away, or do you admit it?

A When Keitel was not at headquarters, then, as a matter of course, whenever the Fuehrer had anything to say to the OKW he talked with me because I was the senior officer next to Keitel.

Q Do you remember the testimony of the witness Wagner about the fact that either you or Keitel usually represented OKW

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at all important staff meetings at which Admiral Wagner was usually present? Do you remember that testimony?

A I did not quite understand that question on account of translating difficulties.

Q I shall repeat the question. On the 13th of May, here in this room, the witness Wagner -- do you remember him?

A Yes, I remember the witness Wagner. He testified that Field Marshal Keitel and I were present at every situation report, and that is undeniably true. I do not dispute it.

Q He stated that either Field Marshal Keitel or Lieutenant General Jodl were present. Is that correct? Do you catch the difference in way this question is phrased?

A In 99 per cent of the cases, both of us were present.

Q In that case, if we forget for a minute the formalistic arrangement, would it be correct to come to the conclusion that it was you, specifically you, Jodl, who was Keitel's functional deputy That is, in the eyes of the whole military machine of the Reich it was you who were held responsible when Keitel was away; you were looked up to as the second most responsible person? Is that correct?

A At special times when the Field Marshal was not there, and in unimportant things, yes, but when it came to important thing I could always reach him by telephone at any time, and that is what I did in actual practice. He was never ill; he was never away on leave; he was, perhaps, away at Berlin at headquarters.

Q In that case, I would like to remind you about this incident which you affirmed yourself here in this room on the 6th of June, while testifying to the Tribunal about the motives which made you sign Document RF-1438. You stated then that this document had no relation whatsoever to your work directly as it concerned the deportation of Jews from Denmark, it did not actually have any direct relationship to your function but you signed it because Keitel was away at the time.

You did say that; do you remember? Is that correct?

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A That is absolutely correct. It was an urgent matter which was of pressing importance and had to be signed immediately.

Q Very well. We can find a great many documents of that type, but I do not find it necessary to spend any more time on making the point clearer.

A Will you tell me whether it can be considered correct that you were well aware of the work and the operations of the OKW, that you usually knew what bothered or what worried the OKW, and what important questions it was working out at the time?

A That applies only to a limited field. As to a number of matters, everything that was handled in the many, many offices in Berlin, it was impossible for me to have a picture of those things, and many of them did not concern me. I have testified already that my time was more than taken up, that I had much more to do than I had time for.

Q Very well, you force me to return to the question whic I considered finished. Will you please look now at our new exhibi USSR 476.

The document consists of excerpts of Keitel's testimony giv 9 November 1945, Keitel's interrogation. It is stated there -- an I am quoting now:

"Question: Was it possible for a situation to have develop where General Jodl, without any knowledge on your part, conducted a meeting?

"Answer: Yes, it was quite possible for Jodl to conduct an important staff meeting, as I was frequently away and Colonel Gene Jodl had full authority to call a meeting."

Have you found the place? Are you reading it now? Do you see it?

A Colonel Pokrovsky, of course, when it come to military things, it is very hard to have everyone follow them. Those were my general staff officers with whom I worked and who were under me That was my office and my duty, and that was my mission.

THE PRESIDENT: I don't think it is necessary for you

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to raise your voice in that way.

Q It seems to me that you have not answered two of my questions. First, have you read the document now, the one that has just been given you? Please answer this first question. Have you read the particular place which I have just cited on page 1?

A Yes. In this case, Field Marshal Keitel says, "Since I was away on official journeys..."

Q Don't read it out loud yourself. I have read it already. I merely want to know: Have you finished reading that paragraph?

A Yes, I read that, and it says here, "To consult the Colonel General about this."

Q No, you are reading beyond the point which interests me at the present. We will get to the place which you just cited a little later. Look above, at the phrase which states that Keitel was often away, and when he was away you acted in his place.

Do you remember? Keitel's answer is right there.

A (No response.)

Q I still hear no answer.

A I have already said that now and then, for a day or so, he was at the front, and that frequently for perhaps a few days he was at Berlin, but he was at those offices which were subordinate to him. Those were the offices that he called on. I was alone with my operational staff, and I could do whatever I pleased with my staff. As far as conferences of other offices were concerned, I never attended them or never called them, and as a deputy of Keitel I didn't know a thing about those matters.

Q You made quite a long statement, but have not given me a clear answer to my very short question, namely: Do you affirm the correctness of Keitel(s statement given in that testimony? Yes or no; it is easier to answer yes or no.

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A It is correct according to the sense, but the thing as set down is ridiculous.

Q We will evaluate it later. I merely want to establish a fact.

COLONEL POKROVSKY: I am submitting USSR 263, Exhibit USSR 264.

BY COLONEL POKROVSKY:

Q You will now have the pleasure of reading it yourself, Mr. Defendant. It is a document consisting of excerpts of the statements of one other officer who worked with you, General Warlimont. Please acquaint yourself with that paragraph which is marked on the exhibit before you, while I read it out loud. That will be quicker.

The question is posed to Warlimont:

"When for the first time did the staff of the OKW receive the directive to prepare the plan of attack on the Soviet Union?"

Have you found the place?

A The document which I have before me, which is marked in red, contains the testimony or a statement by Warlimont as to the organization of the offices of the OKW. On the next page something follows about the preparation for the attack on the Soviet Union.

Q Have you found it now? Very well.

"When was it that the staff of the OKW first received the directive to prepare the plan for the attack on the Soviet Union?"

Answer of Warlimont: "Personally I first heard about the plan on 29 July. On that date Colonel General Jodl arrived in a special train at Bad Reichenall where Section B of the headquarters was situated at the time."

COLONEL POKROVSKY: My Lords, I do not think that it is necessary for me to read too much of the testimony of Warlimont because the facts are well known to the Tribunal; that is, the facts of the conference during which Jodl gave his operational colleagues a command or an order to prepare the plans for that attack. This has come out in Court previously.

BY COLONEL POKROVSKY:

Q Warlimont states: "Warlimont surprised us exceedingly by his announcement of the coming attack." Have you found the place? Please look at the document. Jodl, will you please take the document in your hand and see whether it is correct?

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THE PRESIDENT: Isn't it coming through?

DR. EXNER (Counsel for defendant Jodl): I just wanted to call the attention of the Tribunal to the fact that the translation or the transmission to us is coming through so very poorly that I understood almost nothing at all - only half a question at a time, and I am surprised that the defendant could answer at all.

THE PRESIDENT: Is it coming through better now? Is the translation coming through better now?

DR. EXNER: I am of the opinion that the translation itself is poor, not the technical transmission of the interpretation. It is often very difficult to understand the question. It makes no sense at all, and my colleague, Dr. Stahmer, confirms me in this. It is very, very hard for us.

THE PRESIDENT: Well, we had better go on and see, perhaps, if it will improve.

BY COLONEL POKROVSKY:

Q I would like you to read one other sentence. It is the sentence in which Warlimont states to whom the responsibility for carrying out the plans was given. The sentence goes on to say -- still on page one in the middle of the page, witness. Have you found the place?

A I could not find the sentence which you have just read: "Jodl surprised us." That sentence I cannot find.

Q In that case, I shall begin with the preceding sentence. Perhaps you can find it more easily:

"Besides me he ordered to appear at the staff meeting three other senior officers, Colonel Norberg, Colonel von Falkenstein, and Captain Junge."

Do you see those three names in the middle of the page?

A Yes.

Q "Then Jodl surprised us by the announcement for which we were not prepared."

Then a little further down you see, witness:

"Jodl stated that the Fuehrer had decided to prepare a plan for the attack on the Soviet Union. The Fuehrer based his decision on the fact that war with Russia must come about sooner or later and for that reason it would be better to carry on that war in connection and at the time of the present

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war."

Now, I would like you to read one more paragraph. It is from USSR 476, which you have already looked at, from page one of the exhibit, the first exhibit that you looked at today, and I told you then that we would come back to it. It is the place where Keitel is asked whether he knew anything about that meeting, and he answered -- and I quote:

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"I know nothing whatever about a staff meeting with regard to the plan of attacking the Soviet Union. I heard about that meeting for the first time when I was already here in imprisonment."

Have you found the place?

A No, I haven't found it, but I do recall it. I read just a little bit ago.

Q I would like you to have this exhibit before you; we don't want anything which isn't entirely clear here between you and me.

You can see, a little bit below, Keitel states that even subsequent to that staff meeting you had not even reported to him what took place at that staff meeting or at subsequent staff meetings.

Do you agree with those facts? Would you say that Keitel testified correctly?

A You cannot talk about a conference in this way in a military framework; you can speak about it in a civilian or a parliamentary system, but not in a military framework. I talked to my general staff officers as I often as I pleased.

Q Excuse me, but I would like to interrupt you here. You may add all that you wish to say a little later, but at the present moment I merely want a direct answer.

Is Keitel's testimony correct, to the effect that you had not reported to him on the staff meetings?

A I certainly did not report to him about this conference itself, but that doesn't play any role at all. However, so far as what the Fuehrer told me was concerned, I am certain that I reported to hin on that because that was an important matter. Then, later, because of this matter, he wrote a memorandum. That is why I believe I told him about it, but that is only a supposion, a more or less certain supposition, which I am voicing on this point.

Q Very well, I am quite satisfied with your answer.

To conclude with my first group of questions, I want to ask just one more question, namely: Would you agree with the fact that only the most responsible person, such as Keitel's representative, could, quite independently and without the knowledge of Keitel himself, without any

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directive from Keitel himself, and without reporting to Keitel subsequently -- would you agree that only such a responsible man could conduct meetings and make decisions with regard to plans for attacking another foreign power?

Have you understood my question?

A I understood it word for word, but not so far as the sense is concerned.

First of all, you put q wrong assertion into the question, because you asserted that I did not report about the preparation for an attack on a neutral country. That is an assertion on your part which, on my oath, I refuted yesterday. We were not concerned with an attack on the Soviet Union at this conference. We were concerned with the turning back of a Soviet attack on the Roumanian oil fields. That is established through Document C-170, the War Diary of the Navy. That is established therein.

Q Is that all you want to answer in regard to that question.

A I believe that suffices.

Q Very well. I do not plan to enter a discussion, I merely want to say that we have two types of evidence relating to this: First, your testimony in which you deny the fact that the plan for attacking the Soviet Union took place; and second, the testimony of Warlimont, who was also present at the meeting and who states directly that the meeting was concerned specifically with the plan of attacking the Soviet Union and that the plan was announced by you.

All right, that is enough.

A If you are interested, I should like to explain that divergence to you.

Q At the present moment the difference does not concern me.

One more question. Would it be correct to state that you were either the first or one of the first, staff directors in Hilter Germany who were engaged in preparing the plan for attacking the Soviet Union in the summer of 1940? I would like to know your opinion here.

Have you understood the question?

A The question is clear, and my answer to it is that I was probably the first who knew of the concern of the Fuehrer with reference to the political attitude on the part of Russia. However, I was not the first one who made preparations for an attackkon the Soviet Union. to my surprise, through the witness Paulus, I found out that long before we, in the General Staff of the Army, even concerned ourselves in a direct way, these plans of attack were already worked on. I cannot tell you with absolute assurety where that information came from. Perhaps Halder can tell us about that. I can only express that as a supposition on my part.

Q Suppositions interest us less that facts. You stated, the day before yesterday, the 5th of June, that the attack on the Soviet Union, whereby Germany broke its neutrality pact with the Soviet Union, had the character of primitive war. That is what you stated then, is it not?

A Yes, that is what I said, it was a primitive war.

Q Very well. Do you remember that in the testimony of Milch, Raeder, and Goering, as well as in the testimony of Paulus and Keitel, it was stated that they were all against the attack on the Soviet Union? I shall cite one sentence from Keitel's testimony here in Court to remind you. While General Rudenko was cross-examining Keitel, Keitel was asked this question:

"You stated that you went to Hitler yourself with the request that he, Hitler change his plans with regard to the Soviet Union."

Keitel's answer:

"Yes, I asked him not only to change his plans, but to do away with these plans altogether; that is, not to attack theiSoviet Union."

Do you remember that testimomy of Keitel's?

A Yes, and I know the memorandum as well.

Q Very well. Do you not find it somewhat strange, in that case, that a man next to Keitel in authority tries to discern the facts and that he, at the same

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time, tries to state that he was not responsible for certain things, and that he denies the accuracy of the testimony of Goering, Keitel and others with regard to this question?

A I do not understand that.

Q I will be more specific: I mean, that a man like Keitel did not seem to find any necessity for what you call "primitive war", and that all those persons whose testimony I have just referred to here also saw no reason for carrying on this so-called primitive war. They did not believe that the Soviet Union's intention was to attack Germany, whereas you disagreed with all of them.

A Now I understand you.

Q Would you like to answer the question?

A Yes, I can give an explanation. First of all, it is not certain what position Field Marshal Keitel took in the spring of 1941 with regard to this question. Secondly, the Commander in Chief of the Navy and the Commander in Chief of the Air Forces--with due respect to both of these gentlemen--saw the total picture and problem only from the point of view of naval or air strategy. And they saw no danger whatsoever on the part of the Russian Navy or the Russian Air Force. Whatever was taking place on land, of course, was of minor interest to them. In that way it can be explained why that position was taken by the Luftwaffe and by the Navy, The Army, in this case, was more inclined to see and evaluate the tremendous danger with which it was confronted.

However, there is no man, including myself, who did not warn the Fuehrer expressly and urgently about this experiment, which should have been undertaken only if there was no other way out. I do not wish to overestimate and say that there might not, perhaps, have been a political possibility which was not exhausted; I cannot judge.

Q Very well, I am satisfied with your answer, and specifically with the fact that you characterize the breaking of the treaty and the attack on the Soviet Union with the word "experiment". That satisfies me particularly.

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THE PRESIDENT: I think you should not make comments of that sort. You must ask questions and not make comments.

COLONEL POKROVSKY: My remark, My Lord, is in connection with my next question.

BY COLONEL POKROVSKY:

Q Witness, please look at Exhibit PS 865. Do you have the exhibit before you?

A Yes, I have the document before me.

Q Very well. In reply to the questions of your defense counsel, you stated that Reichminister Lammers, by pure accident, told you that Rosenberg collaborated. In your hands, there is a very brief document which I shall now read from orally, a document signed by Keitel. It consists of a secret letter of the 22nd of April, 1941, addressed to Rosenberg. It is written by hand and states as follows:

"The Chief of the Bureau sent me a copy of the Fuehrer's decree which appoints you as his plenipotentiary on the questions of Eastern European problems. The supreme Command of the armed forces designates you to inform the chief of the questions that develop under you, and in his absence, or whenever he is away, to General Warlimont. Kindly confer only with these two persons."

What will you say in response to this exhibit? I will ask you now whether you remember that Rosenberg, you and Warlimont as your chief deputy were appointed by the OKW as early as in April, 1941 to work on the practical plan connected with Hitler's expansion in the East? Did you understand that whole question?

A Yes, I understood it. I already told the Court yesterday everything that can be said in connection with this matter, formally. Reich Minister Lammers sent the same circular to all Reich ministries. He asked every minister to designate a plenipotentiary and a deputy; and thereupon Field Marshal Keitel naturallydesignated those two officers who were at headquarters. I never worked together with Rosenberg. It was not necessary at all. I had one single conference with him. I mentioned this conference yesterday as well. My propaganda section conferred with the Eastern Ministry about leaflets, and these are, of course, matters which any soldier can understand.

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Q Concerning the question of soldiers, you keep affirming that you were concerned only with military questions of operational nature, and not with political questions. Have I understood you correctly?

A I made that explanation yesterday as well. The policy may be a completely military matter, but to a certain political questions were involved. There was a fusion to a certain degree, for without politics there could be no strategy. It is an essential part of a strategy. But since I was not a strategist, but only ageneral staff officer, for that matter, I was not concerned with this matter directly.

Q You were not concerned with these questions? Very well. Now, please look at Exhibit U.S.S.R. 477. I would like you to tell the Tribunal whether you find your own signature on the last page of that exhibit.

A Yes, indeed; I see my signature.

Q This directive is about organizing propaganda with regard to the Plan Barbarossa?

A Yes.

Q Would you deny the fact that in that directive issued by you the question is posed very directly as to the annihilation of the U.S.S.R. as a sovereign power? Did you consider that as purely a military question? You officers of the General Staff were not concerned with political questions?

A I cannot find the place where it says that Russia is to be destroyed.

Q Youare quite right if you want to draw attention to the form of the directive. Perhaps the words in German are somewhat different, but the sum is exactly the one I stated. Will you look particularly at Point "d" of the directive ?

A Yes.

Q I want to read a sentence:

"At the present time, it is still too early to wage propaganda dealing with the dismemberment of the Soviet Union as a sovereign power."

Further on there are two more remarks, and then, in the same paragraph, it says:

"Nevertheless, we should avoid such terms as 'Russia', 'Russians', 'Russian Armed Forces', and 'people of the Soviet Union', 'Red Army', etc.".

Have you found the place?

A Yes.

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Q Very well. What would you like to answer, if you want to answer the question at all?

A Why certainly I wish to answer the question. As may be seen from the heading in this directive we are concerned with the handling of propaganda; and we are orphans in propaganda compared to the British and the Soviet Union. But that propaganda is something quite justifiable and is not limited by any regulations of international law. You are perhaps quite familiar with that. At one time, in Gene va, there was a debate about this, and it was rejected that any limitation of propaganda was to be considered compulsory under international law.

I have already stated in my preliminary interrogation, a s far as propaganda is concerned, I can add or omit whatever I wish, for, as far as the code of law is concerned, there is nothing that applies to it. But perhaps you do not know that.

This propaganda has to be in compliance with the political directives of the superior, and thi s was taking place in that case. I am very well acquainted with propaganda, for I studied it for five years. And I studied your propaganda as well, and as far as you are concerned, they are entirely different propaganda directives.

Q You preferred not to answer my question directly. That satisfies me, too, because I have understood your position on the subject.

Now, I would like to get an answer from you with regard to this What connection did the Ministry of Foreign Affairs have with relation to the issuance of this directive? Did anyone collaborate with you in preparing it, or were you and your Fuehrer solely responsible?

A I quite understood you. My propaganda division worked in Berlin. In detail, it worked with Minister Rosenberg, as well as with the Propaganda Ministry, and the facts as they applied in each I cannot tell you. But General von Wedel, the chief of this division, can give you the details. I know only that this arose in agreement with the ministry of Rosenberg. But we did not follow our own way, but rather worked in line with the competent civilian authorities. But it is only propaganda is a spiritual weapon.

Q I do not plan to discuss the nature of propaganda with you at the present time, and whether you are responsible for determining the nature of

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the propaganda as well as its activity. But I merely want to know this: Do you, then, presume that this directive was issued after it had been harmonized, more or less, with the work of other bureaus and other government agencies, particularly that of Rosenberg?

A Yes, I believe that.

Q Very well. Now, let us go on to the second group of questions, namely, Would you argue the fact that the document concerned withthe conference in Hitler's headquarters on the 22nd of March, 1941, regarding Yugoslavia -- do you remember that?

A Yes, I do remember that.

Q Would you argue the fact that the document describing that conference which describes the leadership and the responsibility of invading Yugoslavia -- there are two documents, the second dated the 28th of March -- would you then argue or deny the fact that these documents were issued by the general headquarters of the OKW?

Please look at Exhibit 1746 PS. It might help you to remember the events of those two days, the 22nd and the 28th of March 1941, regarding Yugoslavia and plans for Yugoslavia.

THE PRESIDENT: Colonel Pokrovsky, you are not losign sight of the fact that this subject was fully gone into by Mr. Roberts in his cross examination of the defendant?

COLONEL POKROVSKY: If you think, My Lord, that the question has already been completely clarified, I will not ask this question. But it seems to me that I am interested in an entirely different phase of the same question. But if you do not think so, I will not ask it.

THE PRESIDENT: I do not know yet. I was only pointing out to you that it had been fullygone into by Mr. Roberts. I do not know what this document you are suggesting is.

COLONEL POKROVSKY: I offered for the attention of the defendant two documents dealing with plans for Yugoslavia, documents dated the 22nd of March and the 28th of March. If you think that this was fully covered already, I will not ask the questions. But I do have something that I want to be clarified further.

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THE PRESIDENT: All the Tribunal wants to know is whether some really fresh point is being brought out. You must have heard Mr. Roberts' cross examination of the defendant upon the Yugoslavian attack, and I do not know what these documents of the 22nd of March and the 28th of March are, or what you are seeking to get out of them. If this is anything that is really fresh or new, then, of course, you may put it; but if it is not, then it is covered by what the Tribunal has already said, that cross examinations ought not to go over the same ground.

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COLONEL POKROVSKY: If you will permit me to say, my Lord.

THE PRESIDENT: I am asking you to.

COLONEL POKROVSKY: I have not heard Jodl's testimony in reply to Mr. Roberts, only as follows: In other words, I have not really understood by that testimony just who exactly was in charge of the directing of plans against Yugoslavia. Now if the Tribunal still thinks that question is not pertinent I shall not ask it, but it has not been clear to me ffom Jodl's testimony when in a reply to Mr. Roberts.

THE PRESIDENT: Well, Colonel Pokrovsky, the Tribunal is not able to see what there is fresh in this method of questioning that you are now raising, and unless you insist upon it, or you think it is of great importance, we believe you should pass into the next matter in your cross examination.

COLONEL POKROVSKY: Very well. I shall continue, my Lord.

BY COLONEL POKROVSKY:

Q The defense counsel submitted to the Tribunal Exhibit L-172. There occurred there the following sentence, which was prounounced by you in your speech to the Gauleiters on 7 November 1943. I shall read this sentence out loud, quoting: "The problem of insufficient personnel has brought us to the plans of utilizing fully the population reserve of the occupied territory."

A I did not understand the question.

Q I can repeat. The defense counsel submitted to the Tribunal Exhibit L-172. It says in the speech which you gave before the Gauleiters --

THE PRESIDENT: The Tribunal would like your attention.

DR. EXNER : I have not heard the finished quotation, My Lord, that is, Mr. President, the translation is such that we simply cannot understand it. When we receive a sentence it makes no sense at all, that is so far as our opinion is concerned, and I believe the defendant has the same trouble as well.

THE PRESIDENT: The defendant decidedly has been able to understand the translation, as he never protested, and he answered the questions.

DR. EXNER: The defendant cannot understand.

THE WITNESS: I should like to say that even though I have to answer the question, I cannot answer with assurance. I have to guess in most cases.

THE PRESIDENT: Colonel Pokrovsky, will you go a little bit slower.

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You heard, did you not, what Dr. Exner said?

COLONEL POKROVSKY: Yes, I heard him. I am afraid, however, my Lord, that the tempo of my questions were hardly as such in this interrogation. However, I shall try to go slower.

BY COLONEL POKROVSKY:

Q In the speech which you gave to the Gauleiters on 7 November 1943, there was cited amongst other thoughts also the following, quoting: "That problem of insufficient personnel has brought us to the plan --"

THE PRESIDENT: Will you simply indicate for us what page this is on. In our book we have not had any single document in English, as yet. This document we have not had in English.

COLONEL POKROVSKY: It is L-172, my Lord.

THE PRESIDENT: Colonel Pokrovsky, this very passage you just read, or part of which you just read, was submitted by Mr. Roberts yesterday to the defendant. Surely that is contrary to our rules here that we cannot have the same subject gone over twice. We already got it marked.

COLONEL POKROVSKY: I am reading this sentence, my Lord, not as a question but merely as an introductory remark to the question which is to follow the sentence which is in several parts, and the question which is to follow is merely reminding him of the sentence; that sentence in itself is not a question.

THE PRESIDENT: What is the question?

COLONEL POKROVSKY: As soon as the defendant has the exhibit, I shall ask the question.

THE PRESIDENT: Colonel Pokrovsky, we want to know what is the question, so we may see if it was a question which had been gone into by Mr. Roberts. Colonel Pokrovsky, the Tribunal has indicated to you that they do not want to go over the same grounds which was gone into yesterday. If you have some new question, by all means present it.

COLONEL POKROVSKY: I have no intentions, my Lord, of any questions which I have to ask today of repeating a previous question of Mr. Roberts' and I am now questioning with what I shall now proceed, and shall request the defendant to look at Exhibit USR 130. All right, my Lord?

THE PRESIDENT: Go on.

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BY COLONEL POKROVSKY:

Q In the document cited it shows that the directives were issued with the consent of the OKW from a document dealing with the introduction of compulsory military service in the occupied territory. Have you found the place? Please show the defendant the exact thought. Have you found the sentence that I have just read, a decree dealing with the introduction of compulsory military service in the occupied region?

A Yes, that document begins with the following --

Q It begins with the following sentence: "With the consent of the OKW." Do you see that, defendant?

A Yes.

Q As chief of the Operational Section of the OKW, you could not but know such facts as the conscription of the Yugoslav population of the occupied territory into the German Army. What do you have to say about that decree? Is it a crude violation of the International Law? Do you understand my question?

A Yes. I can say only that I see it there for the first time. I am just seeing it for the first time. After all I am not an OKW. I am just a member of the Operational Staff. In other words, I never read this document during the war.

Q You have looked at it now, and do you not consider it a crude violation of the International Law?

A In order to give my opinion I would have to have a legal investigation, and I am not in a position to do that, and I believe it is without interest to the High Tribunal.

Q Very well, on 4 June, in this room, you testified about the Hague Agreement -- or it was at the Geneva Convention, and that you never had the document in your possession, but now you look at one other document which was submitted to the Tribunal on 20 March, which is submitted here as USA 676--678, in March, is the number submitted.

THE PRESIDENT: Well, "38" is the way it ends up here.

COLONEL POKROVSKY: Yes, I am sorry, my Lord, it is 638 PS.

THE PRESIDENT: Colonel Pokrovsky, the document that you just handed up to us is "J-6". Are you offering that in evidence. Are you offering that?

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COLONEL POKROVSKY: No, I am not offering any new document. This document had already been submitted.

THE PRESIDENT: Wait a minute. Are you referring to Document No.638-PS, or are you referring to Document No. J-6?

COLONEL POKROVSKY: I am referring to No. 638-PS.

THE PRESIDENT: It was not referring to document J-6. The document which is before 638 here, it is the Yugoslav document.

COLONEL POKROVSKY: There are two documents which you are referring to, My Lord, it has two numbers, USR 130, and at the same time is J-6. The second document to which I am referring also has two numbers.

THE PRESIDENT: I only want to know if you are offering the first document in evidence, or has it already been offered in evidence.

COLONEL POKROVSKY: It is already submitted, my Lord.

BY COLONEL POKROVSKY:

Q You probably had had sufficient time during this period, witness, to read the document. Have you read it?

A I know about this document in this proceeding.

Q Very well. I want to remind you that twice Goering asserted, or rather confirmed the fact that the document was original, and I am merely questioning the exactness of one or two sentences. Now I would like to ask you, how do you explain the fact that the German High Command equipped and clothed in German military uniform persons who were looting, who raped, plundered, and conducted operations in a way that characterized criminals. How do you explain such commission to do such things? How did you coordinate the means to do such things by the OKW with your understanding of International Law? Do you remember the testimony given here previously about special brigades which were organized for such purposes?

H0151-0022

A. I do not know just wherefrom you know that the High Command gave its approval and that this actually took place. That is something beyond my knowledge. This is only the notes of alleged statements by the Reichsmarshal, but I do not know how it should concern me.

Q. I will try to help you to remember and establish this fact in your memory. Do you remember that there was a special brigade, at the end of 1941 and the beginning of 1942, which operated against the Partisans or guerillas? The first commanding officer of that unit was Bach-Zelewski. But you testified about him on the 7th of January 1946. Do you remember?

A. No, I don't remember that.

Q. Very well. In that case, I will have to show you the testimony or deal with it without any help from you. Do you remember that fact that various units of the Jugoslav Army were special uniforms, that their divisions had regimental numbers? Do you remember that there were such units? Do you understand the question?

A. I approximately understood the question. You perhaps mean the Regiment Frankfort. That is a concept and means something to me.

Q. No, I mean something else. I am sorry. I simply want to remind you that in spite of the fact that units of the Jugoslav Army did not fulfill the qualifications of that to which you refer as special bands, nevertheless, these various units of the Jugoslav Army, although they were uniforms and had regimental numbers, nevertheless, they were called bandits and special bands were organized to deal with them. We have correspondence between various members of the German High Command which mentions the exact regimental and divisional numbers of these various Jugoslav units; that they know that these were parts of the regular army and yet they applied special bands and special measures to deal with them,

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which violated all ideas of International Law. Have you understood me now?

A. I understand you very well.

Q. Would you like to reply anything to that?

A. Yes. I can only say this assertion of yours is untrue, and --

Q. I would like you to reply briefly, please.

A. Yes, I shall be very brief. Those Jugoslav bandits, we characterized them as partisans for propaganda reasons, but in practice uniformed fighters always were treated as prisoners of war; and there is no order which would have prevented them from such treatment as prisoners of war. Otherwise, we wouldn't have had so many prisoners.

Q. I am grateful for you having touched upon the question of prisoners of war. You have testified on oath here that there was no such decree as not to take prisoners of war. Do you remember that testimony of your own?

A. No, there are no International Law regulations which apply to a rebellion. There is no such thing.

Q. No, I am merely asking you to confirm the accuracy of your testimony the other day when you stated that there was no such decree as not to take prisoners of war. Did you give such testimony here in Court a few days ago?

A. That was not my verbatim testimony --

Q. Just a minute. We will talk about this in detail a little later. First I merely want to ask you whether you remember your testimony, given here on oath a few days ago, that there was no such decree issued by the German Army as not to take prisoners of war? I want to know, do you remember having given such testimony here? Have you understood me?

A. I do believe that I remember. I do not know of any directive or any such order that there were not to be taken any prisoners of war; I do not remember that.

Q. Very well. One other thing I would like you to clarify. This document has the following sentence of yours, that you con-

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sidered it improper to question prisoners of war once the decision was made that the prisoner of war be shot; after that decision was made, you do not think he should be questioned, is that correct? I am quoting from this telegram.

A. Yes, I testified to the effect that I rejected that sentence from the moral and from the humane point of view.

Q. Very well. Now I would like you to answer whether you remember that there were four mountain divisions in the

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German Army and that there was such a division called the Fourth Alpine Division?

A The fact that there were four mountain divisions, that I do not remember.

Q I am not talking about four different divisons. I'm afraid you have an incorrect translation. I am asking you whether you remember that there was a division called Fourth Mountain or Fourth Alpine Division? Well, it doesn't matter. I thought perhaps you might remember that one.

A I certainly knew about that.

Q Very well. In that case, you may also remember that there was a responsible officer of the German Army by the name of Kuebler. He operated in Jugoslavia.

A Yes. There were two men by the name of Kuebler, an older man and a younger man.

Q General Kuebler is the man I am interested in. I am not asking you who was Keitel. I know that. However, now we will proceed to the two documents.

THE PRESIDENT: We will adjourn now for a few minutes.

(A recess was taken.)

BY COLONEL POKROVSKY:

Q Now we will deal with these two documents, Defendant Jodl. I will ask you to take up USSR Exhibit 132. This is a directive to a division of destroyers.

A 118th Fusiliers.

Q I will read the directive concerning the conduct of troops during attack. Paragraph 2, Prisoners: "He who has openly participated in the struggle against the Armed Forces of Germany and has been takenprisoner must be shot after questioning." Is that worded in those terms? Do you hear me?

A That is approximately what it says in that one sentence, but without the whole document, nothing can be gathered from that one sentence. What is decisive is what comes before it, and that isn't stated in the

H0151-0026

document.

Q Above you read: Directive for the Conduct of Troops During Attack. Now another document. It bears the markings of the Fourth Alpine Regiment and is dated October, 1943. It contains the personal directive of Keitel regarding the treatment of prisoners. I will ask you to consider Point 3. It says, in the second part of this paragraph: "The Command who are above the rank of divisional commanders can issue permits to take pr isoners." That is tosay, the prisoners and the civilian population in this combat area can be shot.

H0151-0027

THE PRESIDENT: Apparently the translation is not coming through correctly. Perhaps you are going too fast. It is coming through correctly to me, but it apparently was not coming through correctly to the defendants. Would you put your question again?

BY COLONEL POKROVSKY:

Q Subparagraph 3 of the document which is issued to the Fourth Alpine --

THE PRESIDENT: Did you give us the number of it?

COLONEL POKROVSKY: Yes, My Lord. It is USSR Exhibit 470, and it has the second number 127.

BY COLONEL POKROVSKY:

Q Have you found subparagraph 3, defendant Jodl?

A Yes, but this cannot possibly be described as a document, That is not a document.

Q This document deals with the treatment of prisoners.

A But it is not an original. It is a fantastic example of translation. This would have gone straight into the wastepaper basket, but I admit that it may be due to the foolish translation that it looks like this. In my opinion, all it contains is nonsense. The heading says Fourth Alpine Regiment, and it is a Roman four. It should be an Arabic number. There has never been such a word. It says the commandotroops of the Alpine Division, IV. All that is nonsense. Pure, unadulterated nonsense. This is not a document. It is a scrap of paper.

THE PRESIDENT: The Tribunal would like to see the original of these documents. They were put in, apparently, as USSR 132 and USSR 470. Is USSR 470 a new document?

COLONEL POKROVSKY: No, My Lord, this document was previously submitted, and the original document is in the record. I am onlynow showing a copy of the translation, but both ocuments were previously submitted. If you consider it necessary, we can submit the original documents a second time.

THE PRESIDENT: One of the Secretaries to the Tribunal says that it was not submitted before, not offered in evidence before, USSR 470. Are you sure?

H0151-0028

COLONEL POKROVSKY: There may be a technical error, but I was told that it had already been submitted. I will definitely look into this matter.

My Lord, the second document is the original; your second document is in the original, I believe.

THE WITNESS: I can contribute something to clarify this.

THE PRESIDENT: Colonel Pokrovsky, the Tribunal is uncertain about the admission of this document. Could you tell us exactly what the document is, and in which circumstances it is now being offered in evidence? What the document is, and where it came from?

COLONEL POKROVSKY: I can give a quite definite answer to the last question, My Lord, but perhaps I will have to answer the first part of your question somewhat later, as we are investigating the question.

Below the document there is an affidavit which states that:

"This certifies that this is a correct copy of an original document which was captured during military operations in June 1944 at Pokrazzi by the Jugoslav People's Army of Liberation. The original document is being kept in the archives of the State Commission for the Investigation of the Crimes of the Occupiers in Belgrade, and it is dated 4 January 1946, Belgrade," and it is signed by the President of the State Commission, Professor Nedelkowitsch.

I have had this case looked into, and I will find out who submitted this document and what date it was submitted, and if the document has not yet been submitted, then we will request an original copy or photostatic copy of the original document, and we will then submit it in evidence. I believe that that would be acceptable to the Tribunal.

I have just been informed that this document was notsubmitted, and, therefore it is being submitted for the first time, and the original document will be sent for immediately.

H0151-0029

THE PRESIDENT: Colonel Pokrovsky, with reference, for the moment, to Document USSR-132, which I understand has already been offered in evidence, the Tribunal would like to see the original of that document because there are only two paragraphs put out in the copy that we have before us, and that was the point that was taken by the defendant Jodl, that he wanted to see the whole document.

Colonel Pokrovsky, first of all, with reference to Document 132 which the Tribunal understands has already been offered in evidence, the Tribunal thinks that that document in full should be put before the defendant for him to make any comments. With reference to Document 470, which you are now offering in evidence, the Tribunal is of the opinion that you should go on cross examining with reference to that document, subject to the production, as soon as possible, of the original or photostatic copy of the original, and subject to the right of the defendant's counsel to apply to have that cross examination struck out if there is any substantial difference between the translation in the Yugoslav language, which is now being used for the purpose of cross examination of the defendant, and the original document.

Is that clear to you and to Dr. Exner?

COLONEL POKROVSKY: I have understand, my Lord. It will be done.

DR. EXNER: Mr. President, I think that a discussion of this document ought not to be permitted at the moment. There are too many deficiencies in it. It couldn't be right in this fashion.

Roman numeral IV, for instance, the "IVth Alpine Regiment", is referred to. That Roman numeral IV is quite wrong.

Then there is "the commanders", which isn't German, "The commanders delivered", it says, or "informed". Then, on line 4 there is mention --

THE PRESIDENT: (Interposing): Dr. Exner, the Tribunal wants to know what you are talking about. Are you talking about 470?

DR. EXNER: Yes. I am merely trying to show that this cannot be a genuine document because it isn't proper German. For instance, in the fourth line it says, "Department Army Command Staff, OBH" and the command staff is attached to the OKW, not the OKH.

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Then, there is the lack of a signature. It does have the signature "Keitel" on the first page, but he is signed as a Colonel General, incidentally, and he was General Field Marshal at that time.

Then, lastly, this signature is part of the quotation, and it says, "The OKW is supplying the following information". Then there is the quotation, and Keitel's signature is a part of that, whereas the document itself is supposed to originate from the Fourth Alpine Regiment and there is no signature originally from them.

I really don't think that it would be sensible to talk about the document until the original has been supplied. For instance, on page 2 of the document there is the statement that this goes to the commanders of such and such companies. They aren't commanders, these company commanders. That is the wrong word. No German military person could have written this document.

COLONEL POKROVSKY: But I would like to record --

THE PRESIDENT (Interposing): Dr. Exner, the Tribunal adheres to its decision that this document may be used now. All the points which you are now raising and any other points which you may wish to raise upon the document will be opened to you if you wish to move to have the cross examination struck out at a later stage when the original has been produced.

DR. EXNER: I understand.

THE PRESIDENT: For the purposes of not wasting time, it is, the Tribunal thinks, more convenient to have the cross examination upon this document now. We will leave it to you to move hereafter to strike the whole cross examination out.

DR. EXNER: Yes.

THE PRESIDENT: Now, Colonel Pokrovsky, here is the original document 132 which the defendant ought to have for the purpose of making any comments that he wishes to make.

COLONEL POKROVSKY: The directives of the Tribunal will be followed, my Lord. We will submit the original.

BY COLONEL POKROVSKY:

Q Have you acquainted yourself with the contents of the document?

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A That is the order of the 118th Fusilier Division.

Q You do not doubt at all the authenticity of the document?

A No, that is quite genuine. There is no doubt as to the 118th Fusilier Division, but what is a puzzle to me is the connection between the 118th Fusilier Division and myself. That is the part I don't understand.

Q Very well. Well, maybe you will see that the question is not a foolish one, but is relevant. Do you want to add anything to your comments?

A I haven't understood you.

THE PRESIDENT: DDefendant, when you were asked about Paragraph 2 of Document USSR 132, you said that the whole document wasn't contained befor you. Now you have the whole document.

THE WITNESS: I have it, yes. The entire order from Kuebler is perfectly in order in my opinion. Apparently the doubts which the prosecutor has refer to Point 2, where it says, "...who has obviously participated in th fight against the German armed forces is to be shot after interrogation." That, of course, doesn't refer to normal troops. That is with reference to the population. At least, that is how I see it.

Paragraph 8 says, "The attitude towards the population..." and so on. That seems to be in order from the point of view of international law. It draws the dividing line between enemy or hostile populations and the attitude towards peaceful populations.

BY COLONEL POKROVSKY:

Q Is that all you have to say?

A Yes, but as I said, what I don't understand is the connection between Kuebler's order and myself.

Q Do youconfirm that the question of treatment of populations has been separated and dealt with in Paragraph 8, in a separate paragraph? Is that right? You have just referred to that.

Well, I am satisfied with your answer.

THE PRESIDENT: Wait a minute.

THE WITNESS: With the permission of the Tribunal --

THE PRESIDENT: One moment. Defendant, are you suggesting that there is anything in the order itself which indicates that the prisoners

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dealt with in Paragraph 2 are not, as you have put it, normal troops?

THE WITNESS: In that respect, the paragraph isn't very clear, but the next document which the prosecutor has submitted might give the proof regarding what other orders have been published.

However, I consider that it is out of the question that Kuebler coul have given an order saying that captured Yugoslav troops should be shot. Had he done so, then he would have done so by the command of the Supreme Command o the GermannArmy. But how can I give my views on an order from Major General Kuebler?

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THE PRESIDENT: Well, your answer to my question, then, is in the negative, that there is nothing in the order itself which indicates that the prisoners referred to in paragraph 2 are not normal troops.

THE WITNESS: That cannot be derived from the wording of that order.

THE PRESIDENT: Perhaps I ought to draw your attention under the words "General Directives," to the words "for the conduct of troops in action."

At any rate, that is your answer upon the whole document.

THE WITNESS: May I please have permission to look at the original again? Because I have only a copy here before me.

(A document was submitted to the witness).

THE PRESIDENT: You now have the original document before you. Do you want to add anything to what you have said?

THE WITNESS: I just wanted to add that if you do concern yourselves with this order of Major General Kuebler, it isn't by any means certain whether this order refers to any particular action favoring the cleaning out, in any particular territory, of guerillas who weren't regarded as regular troops at that particular moment, but were regarded as part of the population. That is feasible. At any rate, I cannot answer any of those questions because I am not Major General Kuebler.

THE PRESIDENT: You may now pass on to 470.

THE WITNESS: May I ask the Tribunal for permission to rectify my correction to this document?

THE PRESIDENT: Which document are you speaking of?

THE WITNESS: USSR470.

THE PRESIDENT: What do you want to say about it?

THE WITNESS: I had previously described that document as nonsensical because, at the first moment, I regarded it as a German order. In the meantime I have ascertained that it is obviously a Croatian order, because it is addressed to three Croatian battalions. That Croatian order contains a statement by the commander of that regiment in which he related to his troops something which he had received in the way of orders from the 4th German Alpine Division, regarding the treatment of prisoners. He, in turn, traces it back to an order from Keitel, which, however, is misrepresented, and which,

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if it were correct, would have been handed in by the defense counsel for Field Marshal Keitel because it is a wonderful statement of the international law attitude toward such guerillas; that is, if it is correct.

However, it is not a German order; it is apparently a draft or a translation of a Croatian 4th Alpine Regiment order. The 4th Alpine Regiment could not have had anything to do with the defendant Jodl either. That, again, I do not understand.

THE PRESIDENT: Go on, Colonel Pokrovsky.

BY COLONEL POKROVSKY:

Q Well, then, I ask you whether you had knowledge of such a directive of Keitel's stating that the divisional commanders or other senior commanders were entitled to order that nobody should be taken prisoner. Do you have knowledge of such a directive?

A No; it isn't known to me, and it isn't certain that the order was published in that way. However, in certain cases it is permissible under international law.

Q Very well. I have no further questions to put regarding these documents. Perhaps the defense counsel will put some questions when the original document is brought before the Tribunal. I will pass on to another group of questions.

If I am not mistaken, you confirmed the authenticity of your so-called notes for "Plan Gruen," where we

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read of the organization for the creation of an incident before the invasion of Czechoslovakia. It isstated quite clearly that the creation of this incident was to be entrusted to the Abwehr.

Do I rightfully interpret your notes?

A No. The way I got it from the interpreters it is quite distorted. But there has been task about that too in detail.

Q In order to facilitate the task of the interpreters, I will simplify the question.

I believe you confirmed the authenticity of the document dealing with this incident and the organization of this incident. This is the document of the defense, Jodl 14.

THE PRESIDENT: I don't think that can have come through property.

THE WITNESS: It didn't make any sense to me at all.

BY COLONEL POKROVSKY:

Q Did I clearly understand that you did not contest the authenticity of the document Jodl 14?

A If that is the letter from me to Major Schmundt, then that was certainly a genuine document which I wrote myself.

Q I would like to put a question to you in this connection.

Do you confirm that the provocation for what you call the organization of an incident had two objects in view; First, to give a pretext for an attack against Czechoslovakia; and secondly, -- if we use your own terminology, which we heard here on the 4th of June, then the second object was to put the guilt of the war on someone else's shoulders. Were these the two objects which you had in view?

Do you understand my question?

A I got the sense of the words, yes.

Q And can you give me an answer?

A I can repeat the answer I gave yesterday.

Q You confirm the answer you gave yesterday?

A My testimony of yesterday? Yes, of course. I still maintain today something which I said yesterday.

Q Very well. I would like you to tell the Tribunal everything that you know about the supplying of weapons for the Sudeten German Henlein Corps. which you mentioned briefly here. You stated that this Corps had a certain

H0151-0036

number of officers.

A Yes, I remember.

Q In order to help you, I will show you a document, which is the testimony of Karl Hermann Frank. In this testimony he states that the Henlein Corps received a certain amount of weapons. Do you know anything about this?

A I only know of the weapons supplied to the Henlein Free Corps at the moment when it was being formed on German territory. When arms had been previously sent into Czechoslovakia for that Sudeten German group, whether they were smuggled in, or how they were brought in, is something which I know nothing about because the Armed Forces were never in any way concerned with that, just as later on they werenever concerned with the Henlein Free Corps.

Q Do you know what sort of weapons were sent? Were they of German origin?

A The fact that arms were taken into Czechoslovakia is something I know absolutely nothing about. I was not an armament smuggler; I was a General Staff officer.

Q That is why I am asking you about this. You said thatyou had information concerning the arming of the Henlein Free Corps when it arrived on German territory, and that is why I asked you, as an officer of the General Staff, whether these weapons were of German origin or not. You ought to know that.

A Henlein's Free Corps, which was composed near Hof, on the 13th of September, had, in my opinion, Austrian or former Austrian, or even German arms; I think they were Austrian weapons, but I cannot tell you that for certain.

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Q Very well. Let us omit it. We need only quite defini answers.

We will now hand you a photostatic copy of file Green, and you will look at the paragraph which is marked, which reads as follows:

"For the success of that operation, the penetration of Sudeten Germans by paratroopers will be of value.

The Defendant Keitel on the 6th of April, 1946, when he was questioned regarding this part of the document, said that this information could be given by you.

Now, what can you tell the Tribunal about this document?

A I can say with reference to this paragraph that the preparation for a possible war was definite, and that there was a paragraph saying that fortifications would have to be penetrated quickly, or it was going to have to be opened up from the rear, a also that for the success of these two operations, air-borne troo might have to rely on the cooperation of the Sudeten German popul tion, since it was natural, considering the facts, that of the ap proximately 100,000 Germans who had been held up, not one would have turned his weapon on himself, but would have deserted on the spot.

They have written that to me in their personal letters. Th Germans would have at once become deserters. That, of course, we reckoned with, and the military calculations took it into account

Q I am afraid that you did not understand me, or did no wish to understand the question which I put to you. I am interes simply in knowing, Defendant Jodl, whether before the attack on Czechoslovakia you planned diversionary acts on Czechoslovakia. am interested in that. Will you answer me yes or no?

A Firstly, an attack upon Czechoslovakia did not happen at all; that is an historical untruth. Secondly, this was Gener Staff work, which was prepared for the possibility of a war, and there is nothing else to be said about that.

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THE PRESIDENT: That is not an answer to the question. The question was whether you planned before the war, or the possible war, diversionary activity on Czechoslovakia. Did you plan that? Can you answer that?

THE WITNESS: No, I did not. I did not. You will have to ask Admiral Canaris about that. Such matters were not in my jurisdiction.

BY COLONEL POKROVSKY:

Q But Keitel advised us to question you, and you advise us to question Canaris. Very well. I have another question to put to you. Do you know anything about the unification of all pro-fascist forces and armed bands struggling against the states of the democratic block that was carried out in Yugoslavia? Or do you know nothing about that?

A Do you mean the military organization under Marshal Tito That is known to me, yes.

Q No. I am referring to the organization under the direction of the German High Command of a united front of all pro-fascist bands of Michailovitch and others, with the aid of German money and German aid under the leadership of the German High Command Do you know anything about that, or do you not?

A I do not know whether you are thinking of the Chetniks in this respect. They were under Italian command. There was quite a row between us and Italy about that. But the other pro-fascist organizations are known to me.

Q Very well. You will then see Document U.S.S.R. Exhibit 288. The Tribunal has already seen this document. It is the testimony of Neditsch. Two or three sentences from this document have a direct connection with questions that I shall now put to you.

Neditsch testified under oath referring to your aid and the aid of those who financed his band. He named the representatives of the German High Command and of the Gestapo who helped him in creating the armed forces.

Have you found that?

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A That is right. Neditch formed a few armed tropps. He had a foreign unit, too. Perhaps it amounted to 5,000 or 6,000 men. They were Italians.

Q Did you finance this undertaking?

A No. I had no money.

Q No; I am not speaking of your personal means, but the means of the German Reich.

A That I cannot tell you. I never bothered about that.

Q But the German high command directed the organization of these bands, did it not?

A I did not organize it, no. That was discussed between the supreme commander and Neditsch. It was a private authority with Neditsch, whether he issued the call to people to fight or not

Q I do not know whether it was his private business. But it is very important to me that you should confirm that these bands existed, and as to how they were created.

A Yes; I think I can confirm that. There were about 5,000 or 6,000 people.

Q Very well. You will be shown another document referri to the same group. It is an official report of the Polish government to the Nurnberg Tribunal. I will ask you to look at that document under "B". It says, "Selected and recruited among you, and this time to cooperate with the German population, there existe a group of leaders and officers, consisting of officers who came to Poland with passports, long before the beginning of hostile rela tions."

You, as direct leader of "Abwehr", for this "Abwehr's" support made to you -- did you know anything about the organization of this fifth column in Poland?

A There are two small errors you have made, Colonel Pokrovsky. First of all, counter-intelligence was not responsible to me, rather to the Chief of the OKW; and secondly, I stated at length yesterday that as far as the entire preparations for the Polish campaign were concerned, I was not a participant in any way,

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operationally speaking or otherwise. What Canaris did at that time with respect to Poland is something I know absolutely nothing about. I am afraid, therefore, that I cannot be of any help.

Q. Very well. Then we will pass on to the next group of questions. You were examined on the 8th of November by the Soviet prosecution, and a question was put to you: "Did Germany pursue its fascist views while attacking the Soviet Union?"

A. I remember very well, yes.

Q. You will be handed a copy of your answer: "I have to admit that the question of the expansion of Germany and the utilization of Russian economy serving the needs of Germany plays some pa rt. But it was not the reason for the attack on the Soviet Union".

Do you remember having given such an answer?

A. It is possible. I did not sign it. At any rate, it was not the chief cause.

Q. You also said, "We do not intend constantly to enlarge our Lebensraum and thereby acquire enemies". Do you remember that?

A. Yes, I do.

Q. Very well. Maybe you will now recall that the witness Ohlendorf here in this Court Room testified that before the beginning of the agression against the Soviet Union, Himmler in his speech drafted a pogrom of extermination in the East of 10,000,000 slavs and Jews.

A. I recollect having heard that testimony in this Court Room, yes.

Q. As a result of that testimony of Ohlendorf, would you not like to give us your position, or to add something to your answer, whether Germany had as its goal the extermination of Jews in the Soviet Union, or to exterminate the Russian nation, or to free the territory and turn it into a "Garden of Eden", as Hitler said? Dod you think that was so?

H0151-0041

A. That might be something that the Fuehrer might have intended for later on, but I do not know. The military circle s had other reasons which he mentioned before us, and which were clearly proved, as I explained yesterday in great detail. The main reason was the removing of a tremendous pressure on Germany from Russia.

Q. Very well. You will be handed now a document, S.57, which has already been submitted to the Tribunal. One the evening of the 5th of April 1946, this document was shown to defendant Keitel as USSR exhibit 536. I will request you to turn to sub-paragraph 4 of this document and Point 7 of the document, for Keitel stated that more detailed explanations concerning the circumstances could be given by you. We heard of the active participation of Spain in the seizure of Gibraltar as early as 1941. What was the active participation of Spain in the seizure of Gibraltar to be, exactly? Have you found this part of the document?

A. I already know the document. I have it here. But nobody has signed it.

First of all, I have to make a statement in connection with this document and say what it is, so that it is not mistaken for an order.

Q. But I do not think I said that it was an order.

A. That is all right, because it is not an order. I cannot say what the people who proposed this document might have thought, but I made a draft with General Staff officers, presumably, from my department, together with the operational expert of the Navy attached to my office. They supported it, and it then came into the Navy Command Staff for their perusal. The principle feeling there was that the German Staff officers must plan ahead, which was the reason why they had such private thoughts of their own which they had to put down on paper.

THE PRESIDENT: What was your question, Dr. Pokrovsky? It was whether the draft did not --

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COLONEL POKROVSKY: No, I did not get an answer to the question. I asked him what he can say about the actual part which Spain was to play in the seizure of Gibralter in 1941.

THE WITNESS: I cannot make a statement on what people thought. I can only talk about something in connection with Spain which took place in 1940. That I can talk about, but as far as this paper is concerned, I can say nothing about it.

I passed it off long ago as impossible. Only in Nurnberg diddI see this document, and not before.

BY COLONEL POKROVSKY:

Q. But whether that plan was not to be fulfilled is another question. Defendant Keitel said that you could give an explanation; you say that you cannot give an explanation.

A. As I have jus t said, I saw this document in this room for the first time. At that time, nobody showed it to me, because it came about later that the situation was changing.

Q. You also did not know anything about the proposed sending of an expeditionary force to Egypt, Iran, and Iraq, if the Soviet Union had fallen; you did not know anything about that either, did you?

A Such a serious though never arose. In fact, I had the biggest laugh of my life with the Fuehrer when someone mentioned the attack against the Caucasus and Baku. But the General Staff officers played up the initial optimism of our large victories. I must confess that that was their information. They can have ideas if they want. But something which is decided on is later carried out by older and more tired staff officers.

Q. Do you confirm that the success of the Red Army upset those far-reaching plans of Hitler and Germany toward Iraq, Syria, and Egypt? Is that right?

A. If the Soviet Union had collapsed, then one might have sickened at the idea of the continuation of the war. But he never discussed the question of an attack on Turkey, because they would have come over on our side anyway.

H0151-0043

Q. And how do you know that?

A. How do I know it? That is contained in documents and entries of the diaries of the Command Staff which put the problem very clearly. It says that Turkey would come over to our side, anyway. It was therefore ordered that it should have friendly treatment, for supplies, armored vehicles, ammunition and so forth. There were suggestions on their part, and they received excellent thanks for what they did. And the Fuehrer would never have done that if he had expected Turkey to join our opponents.

Q. Well will pass on to another group of questions. On the eve of the campaign against Russia, a conference was held between the representatives of the OKW, the OKH, and the so-called RSHA, and the participation of the SIPO was taken into consideration and discussed.

Do you know anything about this? This was testified to by Witness Ohlendorf, on Page1,972.

A. I know nothing about that. I was working on quite difference matters, and I have never had any conferences or connections with the RSHA at all.

H0151-0044

Q Are you acquainted with Wilhelm Scheidt?

A Scheidt.

Q Who was working with General Scherf?

A Scheidt, yes, he was a historian and an assistant to General Scherf.

Q Are you acquainted with the text which was quoted here in court, and which is on page 2207 of the English telegraphic record, in which is mentioned the criminal activity of the punitive expedition against the Soviet population was known to the officers of the operational division of the general staff. Do you remember that?

A I do not know from the words that he used. I cannot remember that. There were no criminal matters of that nature before the command staff or myself. We were fighting against them, and I made that abundantly clear here.

Q Do I understand that you deny your knowledge of the criminal punitive expedition against the civilian population. Do you mean to say you knew nothing about it?

A Of course, I could not fight against the Yugoslavs, it was quite clear, as I got instructions from the Army command.

Q Witness, on the 7 January 1946 the witness Bach-Zelewski testified that the aim of this struggle against the Partisans was the extermination of the Slavs and the Jews, and that the methods of this struggle were known to the High Command. Do you wish to deny this, too?

A That has nothing to do with me. My instructions contained something different. I have already described the intention of my operational staff, which were quite clear. In comparison with the size between the German and Soviet Armies, the number of guerrillas was negligible. It was in a minute percentage.

Q Would you recollect when and under what circumstances you personally attended a conference held by Hitler, wherein he stated the German troops were entitled to deal with the Partisans as they wish, and to give them that sort of death in killing by

H0151-0045

hanging them head downward until death. Do you remember this?

A About this matter, which was rather serious, we talked for quite sometime.

Q You perhaps also were able to speak about that thing at length, and more precisely. Will you state whether you said something of that sort, and under what circumstances did you say it?

A I would say continuously. On the 1 December 1942, as t Tribunal will remember, there was an induction, dated 11 November, which came from the Army command, in which I participated in 1944, and that is described as out of date. That at that induction on 11 November, I had written a sentence concerning the burning down of villages as a reprisal would be forbidden, that at once that would end. The grounds for that order remained before the staff for weeks. Continuously we objected to the fact that this inductio would limit recruits, in their ruthless combat in fighting against the guerrillas; since at that time even I had already published that instruction, and, since on the other hand, he had not given his permission yet, I became rather rude, and once more he made his lengthy explanation of his experience in fighting against the commander of that unit. I said "This problem should be dealt with, my Fuehrer; some people were in battle which does not at all compare with this explanation sofar as you are concerned." I said, "You can quarter them or you can hang them up by their ears." If I had known that the Russian gentlemen have so little sense of cynicism, then I would have added to that, "Fry them on the fire." That is what I said. But in this instance we are concerned with reprisals after the battle, and they had been prohibited. Then there were roars of laughter on the part of all the officers present, and the Fuehrer, and he gave me permission to issue that order, and I can say that the testimony of a witness of mine will confirm that to you. Since that essentially Germany was not quartering anybody any more, and they were not hanging people by all their ears, it might possibly be generally known that is why the

H0151-0046

reporting of that remark to me should be regarded as nothing but finical.

COLONEL POKROVSKY: I shall ask the Tribunal to permit me to ask one more question, and probably not more than one, and to take not more than one minute.

THE PRESIDENT: What did you say?

COLONEL POKROVSKY: I ask permission to put another question, and not to take more than one minute. The last question refers to a group of questions.

BY COLONEL POKROVSKY:

Q Do you have knowledge of the fact that the German Troop probably understood the order better than we, that of quartering and hanging with the head downward, and of burning Soviet Partisans Did you know of that?

A Not only I did not know it, but I don't even believe it

COLONEL POKROVSKY: With the permission of the Tribunal I shall go to the last group of questions which I shall have to put to the defendant after the recess.

THE PRESIDENT: How much longer will that take Colonel Pokrovsky?

COLONEL POKROVSKY: I have only a very few questions to put, and I believe it will not take very long.

(A recess was taken until 1400 hours)

H0151-0047

AFTERNOON SESSION

(The hearing reconvened at 1400 hours 7 June 1946).

ALFRED JODL - Resumed.

CROSS EXAMINATION - Continued.

BY COLONEL POKROVSKI:

Q. You have given rather important testimony some time ago. You have admitted tha t in 1941 the warriors of the Red Army were resisting fanatically the Fascist invaders and that many of them were captured alive only because they frequently lost consciousness from exhaustion, and that it was their exhaustion which explains the reason why the mortality among prisoners of war was very great.

A. That is true and applied to the prisoners in the circle of Vjasta.

Q. Do you remember any other reason known to you for such great mortality among Soviet prisoners of war?

A. Other reasons are not known to me and were not made known to me.

Q. To refresh your memory, I draw to your attention a short excerpt from our document, USSR 353. It is the Rosenberg letter to the Commander of the Armed Forces. It is dated 28 February 1942. I would like to draw your attention to a few short excerpts. On page 1 there are marked the following sentences: "The fate of the Soviet prisoners of war in Germany is a tragedy on a very large scale. The great majority of them died from hunger or from exposure to bad weather. Thousands died of typhus". Omitting several other sentences, I move over to the next page, citing: "Several sensible commanding officers of various camps---", Then it goes on to state that the population agreed to supply the prisoners of war with food. "However, unfortunately, the civilian population in most cases did not allow any food to be brought to the prisoners of war by the civilian population". Also, in many cases, the prisoners of war

H0151-0048

who could not march were shot in full view of the civilian population and the corpses were left on highways". Further, quoting: "One could often hear such remarks as these: The more prisoners of war who die, the better it is for us". Citing further, Page 3: "It would be naive to think that the camp conditions could be concealed from the Soviet Government. It is quite clear from notes the the Soviets were fully aware of the conditions described above". Have you found these places, Defendant?

A. Yes, I found them.

Q. If there were reasons such as these, I would like to know whether you were informed about them?

A. No. I heard about this laterhere in the Court for the first time, but --

Q. I am not asking you about the letter, Defendant Jodl. I am asking you about the reasons for this mass mortality, reasons given in the letter.

THE PRESIDENT: Is the document signed?

COLONEL POKROVSKI: This document, My Lord, has no signature. It was prepared in Rosenburg's bureau. It was originally numbered 081 PS and belongs to the prosecution of the United States of America, who transmitted the document to us.

BY COLONEL POKROVSKI:

Q. I have not heard your reply, Defendant?

A. I did not know about the reasons of this mass mortality and they seem to be completely wrong. That I do know. I know the number of the Soviet prisoners of war and I could refer to these figures from my memory.

Q. Very well. We shall now pass on this question from a different viewpoint. Are you acquainted with the name von Graevenitz?

A. Yes, the name is familiar to me.

Q. Did he work in the OKW?

A. If I am not mistaken, he was in the general Wehrmach office and a subordinate of General Reinecke.

H0151 - 0049

Q. This time you are quite right. Do you know General Oestreich?

A. No, I do not know this general.

Q. You have never heard the name?

A. I do not recall it, no.

Q. The General was Chief over the section in charge of the prisoners of war in one of your military districts. You might remember, perhaps, the testimony of this General with regard to the directive which you received from von Graevenitz about the Soviet prisoners of war. You will now be shown Exhibit USSR 151. Page 5 of the German text has the place, Defendant, to which I would like to draw your attention: "At the end of 1941 or at the beginning of 1942 I was called to Berlin to be present at the staff meeting of section chiefs in charge of prisoners of war affairs in the military districts. The staff meeting was presided over by the new Bureau Chief, Major General von Graevenitz. The following question was discussed: What should be done with regard to those Soviet prisoners of war who, as the result of wounds, exhaustion or sickness, were not fit to be used as laborers. After prompting by General von Graevenitz, many officers present, among them medical officers, took the position on this problem that those prisoners of war should be concentrated in camps or hospitals and poisoned there. After this discussion, General von Graevenitz issued the following directive: 'Those Soviet prisoners of war who are not fit to be used as a labor force must be put to death. The medical officers of camps should be used to put them to death'". Do you know anything about that?

H0151-0050

A I knew nothing about that at all, and I cannot comment on this document. It had nothing to do with me whatsoever. I do not know whether it is true, but General von Graevenitz certainly must know about this. I had no connection whatsoever with prisoners of war. That was another office, and General Reinecke concerned himself with this matter.

Q Graevenitz holds himself responsible for his testimony. He was not only a practical man in charge of these actions; he both directed them and put them into effect, but you tell me you knew nothing about them?

A Not at all. General von Graevenitz was not a subordinate of mine. I had no conferences of any sort with him. I saw him, perhaps, three times in my entire life. I was not responsible for prisoners of war, and I was not competent in that direction.

Q Very well. In that case, we will pass on to my last group of questions. They are very few.

When defendant Keitel was cross examined in this court room, as well as in the interrogations preceding the trial-- I think this particular item I am going to quote comes from a preliminary interrogation--in any event he stated that more detailed testimony about directives to annihilate both Moscow and Leningrad would be given to you. You, here in Court, stated that the directive was issued for two reasons; First, General von Leeb reported about the infiltration of the Leningrad population into the front lines, and the second reason was the measures taken in Kiev.

A Not reprisals, but the justifiable fear that the same thing would happen to us in Kiev, and the third reason was the announcement by the Soviet Russian radio that this matter actually was to take place, the same time that had happened in Kiev.

Q Very well. The important thing for me to establish is the fact that you connected the issuance of this decree with the report from the Leningrad front and with the Kiev affair; you have connected these things.

A I did not connect these two, but events as they happened influenced this decision of the Fuehrer in this direction. These were the causes and reasons which he personally gave.

Q Very well. Perhaps you will remember this: When did the Supreme Command receive this directive--in what month?

H0151-0051

A That was in the first days--as far as I recall--the first days of September.

Q Very well, You may also remember the date when the Germans captured Kiev. Was it not towards the end of September 1941?

A As far as I recall, Kiev was occupied at the end of August. I believe it was on 25th of August--at any rate, around this period.

Q Not on 22 September? 22 September, defendant?

A That is entirely out of the question. We have a report available here about the incidents in Kiev, and the date of this document is one that I cannot quote from memory, but it is document PS-053, and the date should be confirmed from this document.

Q In that document is the date 22 September. However, let us suppose that it did happen in August. Would you not remember then the date when the Cammanding Officer first stated that he planned to--

A I beg your pardon. I made a mistake as to the date. This document, C-323, is the Fuehrer decree, dated 7 October. Therefore, your statement can be correct. I made a mistake of one month, and the taking of Kiev actually took place in September. The reports which we received came in the first few days of October. I made a mistake; I am very sorry.

Q If you please, it is not particularly important. I would just like you to remember the date of Hitler's statement, a very categorical statement that Leningrad would be erased from the face of the earth. That is the statement I would like you to date and the statement I would like you to remember.

A You are referring to the document of the navy. I assume, the document of the SKL, the Navy Command Staff?

Q You will now see the document L291 and be shown the place where it states how on 16 July 1941 at the staff meeting at Hitler's headquarters, Hitler stated this thing about vengeance against the Leningrad regions themselves. The Fuehrer would like to erase Leningrad from the face of the earth. Have you found the place?

A Yes, I have found the place.

Q This took place on 16 July 1941, did it not?

A The document seems to be dated that date, the 16 July, yes.

Q That was considerably earlier than the date of your receiving the report from the Leningrad front?

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Haynes

A That was a month prior, yes.

Q It was considerably earlier than the time when any explosions or any fires took place in Leningrad?

A That is completely correct.

Q Evidently just because of that and not accidentally did it happen that in the testimony which you gave during interrogation and here in Court. that the Fuehrer decided--that means decided once more--to erase Leningrad from the face of the earth. That evidently means that it was not the first time.

A No, this decision, if actually was a decision---the statement made in this conference--that I learned about for the first time here in this Court. I personally did not take part in that discussion, and I do not know whether the words were said in that order. My remark that the Fuehrer had again decided in this way, that refers to his oral words, which he gave previously, perhaps one or two days prior, to the commander in chief of the army, and there was a conversation about this. It can be shown that in the order I refer to a statement of the High Command of the Army of the 18th, and in that way the word "again" is to be explained. I heard for the first time here in Court that that discussion took place at all.

Q Very well. I am quite sure that the Tribunal will be able to judge just precisely when this statement was made. You have asserted that you have known nothing about reprisal measures taken against the Jews?

A Yes.

Q Yet just this minute you referred to document PS-053. It consists of Koch's reports, signed by him personally. Perhaps you can confirm the fact that it states quite clearly there that for the fires in Kiev, for which Koch accuses the civilian population, in return for those fires, 35,000 people--more than half of them women--were killed.

A I know that full well, but I saw this document for the first time here in the document room, and I considered it to be a good proof for the incident in Kiev, and the fact is that this document was unknown to me until my appearance in Nurnberg, It never went to the OKW. In any event, I never had this document in my hands.

H0151-0053

Q And in general, you know nothing about the fact that Jews were killed?

A I believe that today for certain there can be no doubt about that, for it has been proved.

Q Very well. In the exhibit submitted by your own defense counsel as Jodl-3, page 6 of your document book, in the last entry made on that page there is the following statement:

"The great majority of all the generals will leave the Army."

This refers to your diary entry of February 3, 1939. Do you remember?

A Yes, that is from my diary.

Q Quite right. Should I understand you then to mean that at that time resignations from the Army could take place any time, that any general could retire or resign from the Army any time? That is what the entry implies.

A As to the time then, I believe it was quite possible, yes. That is, in the year 1938 I knew of no decree which would prohibit anyone from doing that.

Q Very well. In Exhibit Jodl-64, which was submitted by your defense counsel, there was one place which for some reason was not read into the record, and I would like to read it now. It consists of the testimony of General von Vormann, who states under oath that you, together with General von Hammerstein, often used the following epithets with regard to Hitler, "charlatan" and "criminal."

Do you confirm the correctness of that testimony, or was the testimony of the general incorrect?

A to my best knowledge, and according to my conscience, I believe that he was confusing two things. In talking about the Fuehrer, I very frequently mentioned that I considered him a charlatan, but I had no reason to consider him a criminal. I used the expression "criminal" frequently, but not as applicable to the person of Hitler whom I did not know at the time. I applied it to Roehm. I repeatedly labeled him as a criminal, and I believe that Vormann is confusing these statements of mine just a little bit.

I used the expression "charlaten" frequently, and that was my opinion at that time.

Q In that case, you applied the epithet "charlatan" to Hitler and "criminal" to Roehm, is that right?

A Yes, that is quite right, because at that period of time it was my

H0151-0054

opinion. I knew Roehm, but I did not know Hitler.

Q Very well, How can you explain that you agree to take a leading post in the German military machine subsequent to the coming to power of the man to whom you referred as a charlatan?

A In the course of the years I convinced myself -- at least in the years 1933 to 1938 -- that he was not a charlatan but a gigantic personality, and in the final analysis, of course, he had assumed a terrific greatness, but at that time he was a great person without doubt.

Q Very well. Did you receive the golden insignia of Hitler's Party?

A I have already testified to that and confirmed that fact.

Q In what year did you receive it?

A On the 30th of January 1943.

Q This was subsequent to the time when you came to the conclusion that Hitler was not a charlatan?

Did you hear my question?

A Yes. At that time, it had become clear to me, as I said just a minute ago, that he was a gigantic personality who had many favorable and unfavorable aspects to his personality.

Q And after you came to that conclusion, you promptly received the golden insignia.

Thank you very much.

COLONEL POKROVSKY: I have no more questions, your Honor.

DR. NELTE (Counsel for the defendant Keitel): I should like to call the attention of the Tribunal to USSR-151, which was submitted by Colonel Pokrovsky. I should like to ask that this document be admitted only if General Oesterreich can be produced as a witness available for cross examination. My reasons for this are the following:

First, the document as submitted contains the heading "Aussagen" or "Testimony", but we cannot determine when these statements were made.

Secondly, the document contains no mention of the place where this document was deposed.

Third, the document is not an affidavit, although according to the last paragraph General Oesterreich set it down in his own handwriting. I think a certification should have been affixed as is the practice.

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Because of the tremendous weight of the accusation which is contained in this document against the administration of the prisoner of war system, in my opinionit is necessary to order that this general be heard here in person.

THE PRESIDENT: Yes; go on.

DR. NELTE: These are the reasons for my request for this witness, and in conclusion I should like to remark only that General von Graevenitz is not alive any longer. At any event, he cannot be located. I tried to find him as a witness on behalf of Keitel.

THE PRESIDENT: Is it a fact that this document was offered in evidence as long ago as February or March?

DR. NELTE : I do not remember that, nor -- and I know this for certain -- was it issued to us through the Document Division. It was not put at our disposal. I see this document for the first time now.

Perhaps Colonel Pokrovsky can assist the Tribunal in this connection.

THE PRESIDENT: The Tribunal will consider your request.

DR. NELTE: May I please also call the attention of the Tribunal to the fact that the document is dated the 28th of December 1945, and I believe the witness can be presented by the same people who took his testimony at that time.

COLONEL POKROVSKY: I think I can state that the document was submitted by the Soviet Prosecution on the 12th of February 1946, at which time it was admitted in evidence by the Tribunal.

THE PRESIDENT: Colonel Pokrovsky, just one moment. Was it translated into German t on orwas it read in court?

COLONEL POKROVSKY: I have a memorandum from our documentary section that the document was submitted on the 12th of February, at the time when General Zorya was presenting his material. This is the only note that I have. My personal supposition is that the document was, of course, also submitted in German at that time. We can clarify thematter further, though, without any trouble and very quickly.

THE PRESIDENT: Do defendant's counsel want to re-examine?

H0151 -0056

REDIRECT EXAMINATION

BY DR. EXNER (Counsel for the defendant Jodl):

Q First of all, I should like to put one question which was raised by the questioning on the part of the defense counsel, and a question which seems to need clarification.

One of the defense counsel reminded you of photographs which depicted atrocities in occupied countries, and on the occasion of that showing, you said, "These pictures are genuine." What did you mean by that?

A By that statement I meant to say that it was not trick photography, at which the Russian propagandists were masters, but rather that these were pictures of actual incidents. However, I also wanted to say that the pictures were in no way any proof of who committed the atrocities. The fact that they were found among Germans would almost lead us to the assumption that they were pictures of things which had been perpetrated by the enemy. In general, one does not take a picture of an atrocity if one has committed the atrocity in the first place.

H0151 - 0057

Q Very well. The English prosecutor submitted a new document, PS-754, dealing with the destruction at the withdrawal of the German Army out of Norway. Why, in this purely military Fuehrer decree, did you set down: "The Fuehrer has decreed, according to the propcsal of the Reich Ministry for the Occupied Norwegian Areas", and so forth and so on? Why did you state "according to the proposal", and so forth?

A In my sphere of command I had a sort of secret code for the commanders in chief. If and when an order or a decree had arisen from an agreement between the OKW and the Fuehrer, then I started with these words "The Fuehrer has decreed". If a decree originated from the Fuehrer himself, I started the decree with a preamble, which preamble gave the reasons or the arguments presented by the Fuehrer. Then, after the preamble, I said "The Fuehrer, therefore, has decreed".

Then, if a decree was put through at the proposal of a non-military agency and was supported by the Fuehrer, so to speak, then, as a matter of basic principle, I added, "The Fuehrer, on the proposal of this or that civilian authority, has decided", and so on.

In that way the commanders in chief knew just what we were concerned with.

Q Did you draft this decree--number 754--without objection and without resistance on your part?

A This decree arose in a similar manner as the commando decree, or the commando order.

One of the civillan adjutants of the Fuehrer advised me that Terboven wished to speak with the Fuehrer, that he had had a conflict with the Wehrmacht, or with the armed forces, in Norway because of the evacuation of Norwegians from Northern Norway--that, of civilian populations. The civilian adjutant wanted to advise me first, before he brought about a telephonic connection with Terboven. Thereupon at once, through my staff, I had inquiries made with the Commander in Chief in Finland. I was told that as far as the Commanding Chief of the Wehrmacht in Norway was concerned, he had rejected the proposals of Terboven and did not consider them necessary on such a large scale. In the meantime, Terboven had spoken with the Fuehrer.

I then gave the picture to the Fuehrer and told him that to this large extent the intention of Terboven could not be carried through, that it would

H0151 - 0058

not be practicable; and secondly, that it would not be necessary at all on this large scale. I said that, rather, one should leave it to the discretion of Raendolitsch as to what he wanted to destroy, or had to destroy, for military reasons.

However, because of his conversation with Terboven--these arguments, which I had to set down--the Fuehrer forced through the issuance of that order, but it certainly was not carried through to this extent and in this scope. That is shown by the report of the Norwegian Government, and it can also be seen from personal discussions between myself and my brother.

Q Now let us turn to something else; let us turn to the drafts and proposals which were to be submitted to the Fuehrer. Did you voice objections and did you present arguments? It seems remarkable that you did not present moral or international law objections when matters contrary to international law were contemplated. However, you voiced mostly opportunistic and suitable objections. Can you tell us why you quoted those objections in preference to the first-mentioned ones?

A I mentioned, when I discussed this form, that we were not denouncing the Geneva Convention.

Q Namely?

A This form had to be chosen in order to meet with any success with the Fuehrer.

Q Yes, I know about that.

H0151-0059

MR. ROBERTS: Your Lordship, I object to this merely in the interests of time, because it is exactly the same evidence which was given yesterday, and, in my submission, it is pure repetition.

BY DR. EXNER:

Q A conversation at Rechenhall was mentioned. Please tell us how all this came about.

A I have already testified about the conversation with the Fuehrer. This conversation only concerned itself with--

THE PRESIDENT: The defendant has just told us that he has given evidence about this already.

DR. EXNER: Yes, about this conversation which preceded it.

BY DR. EXNER:

Q I do not believe you testified about the actual conversation at Reichenhall.

A No, I did not mention the actual conversation at Reichenhall.

Q Please be brief.

A As to this conversation at Reichenhall-- that is, the orientation of the three offices of my staff--Warlimont reproduced that slightly differently than the way I testified. He is confusing here the earlier events with the laters ones. I am not surprised at that, because, after the 20th of July until he was arrested, he had a severe concussion of the brain and had a complete loss of memory. He was ill at home after the 20th of July until he was arrested, and up until the time that he was captured he was not fit for service.

That my picture is correct, as I have presented it, may be seen from the notes and documents in the War Diary of the Navy, or of the SKL, and it can be seen unequivocally and without doubt. It is stated there that this division would be transferred to the East only, so that Russia would be prevented from taking the Roumanian oil fields; it was to meet that threat on the part of Russia.

DR. EXNER: I should like to correct one point, which it seems to me was presented erroneously by the Russian prosecutor. He said

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that Goering and Keitel did not consider the war against Russia to be a preventive war. On page 5954 of the record it states that Goering, as well, considered the war to be a preventive one, and that he was of a different opinion than the Fuehrer only insofar as he wanted a different period of time for this preventive war, and he would have chosen a different period of time. Keitel, on the other hand, was of the same opinion.

Furthermore, the Russian prosecutor submitted a document, number 683 PS--I do not know the exhibit number as quoted by him. I cannot quite see how this document is to be connected with Jodl, and I have the thought that perhaps it may be a matter of signature, because this document is signed "Joel". However, this "Joel" is someone completely different from Jodl the defendant. I would like to call the attention of the Tribunal to the fact that perhaps it is just a mistake or a confusion in the names "Joel" and "Jodl".

Then, we discussed the situation where the defendant made a remark about the hanging by the ears or the hanging upside down of partisans, and so forth.

THE PRESIDENT: Dr. Exner, you have simply made a statement, which you are not entitled to do, about this document. If you want to prove it by evidence you should ask the witness about it. You have told us that this document has nothing to do with Jodl, and that the signature on it is somebody else's. Why didn't you ask the witness?

I have been told just now that it has already been proved that it isn't Jodl's document.

DR. EXNER: The translations this morning were bad, and I really can't remember the details now.

Is it permissible now that, in this connection, I read something from an interrogatory? It is only one question and one answer, which is connected with the remark about the hanging of prisoners, and all that sort of thing. Is that permissible?

THE PRESIDENT: Yes, if it arises out of the cross-examination.

H0151 - 0061

DR. EXNER: Yes; the Russian prosecutor brought up the question of whether the defendant had made that remark during the conference:"You realize, rather-- something in connection with this Guerilla Order - that members of such Guerill bands could be quartered during the fight."

This is my document, AJ 7, Page 189 of Volume 2 of my document book. It is an interrogatory of General Buhle, which was taken in America. There it says:

"According to a stenographic transcript, you also participated in a situation report on the evening of 1 December 1942, in which a long discussion between the Fuehrer and Jodl took place pertaining to combatting Partisans in the East. Is that correct?"

The answer is, "I participated in this discussion; I cannot remember the exact date anymore".

THE PRESIDENT: What page did you say, Dr. Exner?

MR. ROBERTS: My Lord, it is the third page of the third book, or the third document in the third book.

DR. EXNER: It is Page 189. I have just read Question 4. Now I come to Question 5:

"Is it or is it not correct that Jodl on this occasion demanded from the Fuehrer the return of the directive drafted with him pertaining to the combatting of Partisans?

"Answer: That is correct.

"Question:6: Is it or is it not correct that in this draft the razing of villages was expressively prohibited?

"Question 7: Is it or is it not correct that the Fuehrer wanted to have the prohibition rescinded?

"Answer: Since I never possessed the draft of the directive, I do not know for certain if the razing of villages had been expressively prohibited. However, it may be assumed, because I remember that the Fuehrer protested against individual decrees of the directive and demanded the razing of villages.

"Question 8: Is it or is it not correct that the Fuehrer also had misgivings against the draft because he did not want any restrictions to be placed on soldiers who were directly engaged in combatting the Partisans. According to the minutes Jodl stated in reply: "This is completely out of question. They

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can do whatever they feel like during combat, they can hang them, hang them upsidedown or quarter them, that is not mentioned in it. The only limitation applies to reprisals after the fighting in those areas in which the Partisans were active..."

"Answer: It is correct that the Fuehrer had fundamental misgivings because of these restrictions. Jodl's remark is correct as far as contents are concerned. I cannot recall his exact words anymore.

"Question 9: Is it or is it not correct that following this remark all those present (Fuehrer, Keitel, Kranke, and you yourself) laughed and the Fuehrer abandoned his standpoint?

"Answer: It is probable that all of us laughed on account of Jodl's remark. If following this the Fuehrer really abandoned his standpoint I do not know for certain. However, it appears probable to me.

"Question 10: Then how were the expressions hang, hang upside-down, quartered interpreted?

"Answer: The expressions "hang, hang upside-down, quartered" could in this connection be interpreted only as an ironical remark and be understood to mean that in accordance with the directive no further restrictions were to be placed on the soldiers in combat.

"Question 11: Could you perhaps state anything about Jodl's fundamental attitude towards the obligation of the Wehrmacht to keep within the provisions of International Law in warfare?

"Answer: I do not know Jodl's fundamental attitude. I only know of Keitel, the immediate superior of Jodl and myself, that he always attempted to comply with the provisions of International law.

"Question 13: Have you ever witnessed when Jodl influenced the Fuehrer to issue an order which violated International Law?"

THE PRESIDENT: None of that last part arises out of the cross examination.

BY DR. EXNER:

Q Have you had any contact with prisoner-of-war affairs?

A I had nothing at all to do with prisoner-of-war matters. That was a matter for the OKW Department which was handling it.

Q Now, one last question. It has been alleged by the prosecution during

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yesterday's examination that there had been a conspiracy between political and military leaders for the conduct of agressive wars, and that you had been a member of that conspiracy. Can you finally say anything to that?

A There was no ---

THE PRESIDENT: (Interposing): Dr. Exner, the Tribunal really does not think that that arises out of the cross examination. Anyhow, he said it already; he said that he was not a member of a conspiracy. There is no use repeating his evidence.

DR. EXNER: Yes. It was again said yesterday that a very close connection existed between the defendant and the members of the Party, and, of course, that is connected with the conspiracy. That is why I thought the question would be permissible. I do not know whether the President differs.

THE PRESIDENT: He said already that he was not a member of the conspiracy.

DR. EXNER: In that case, I have no further questions.

DR. LATERNSER: (Counsel for the General Staff and the OKW): Mr. President, I was only going to refer to the objection which Dr. Nelte has raised against the

written statement of Lieutenant General Oesterreich. I join in that objection and refer to the statement which he has made.

BY THE TRIBUNAL (Justice Biddle):

Q Defendant Jodl, you spoke, I think it was the day before yesterday, about the number of SS divisions at the end of the war. Do you remember that ?

A Yes, I do.

Q I think you said there were 35 at the end of the war: Is that right, 35 about ?

A If I remember rightly, I said between 35 and 38.

Q Right. Now, what I want to be clear about is this. You were referring only to Waffen SS divisions, were you not ? Only the Waffen SS ?

A Yes, only the Waffen SS.

Q Were they completely coordinated into the army and under the command of the army ?

A As far as operations were concerned, they came under the army commanders, but not as far as discipline was concerned. Their superior was, and remained, Himmler, even when they were fighting. He was also considered as such by their supreme commander in practice. As far as the strenghth of the divisions, the equipment, and the losses, that was something which was his very own; in fact, it was exclusively reported to the Fuehrer by Himmler himself.

Q When had they been coordinated into the army ? When ? What year ?

A They were included in with the Army at the beginning of the war, at the moment when the Polish campaign began.

Q Now, only one other question, about Russia, I want to see if I understood your point of view clearly. You feared an invasion of Germany by Russia; is that right ?

A At a certain point, I myself expected either a Polish blackmail on the strength of this troop concentration or an attack.

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Q Just a minute. I asked you if you did not fear an attack by Russia. You did at one time, did you not ?

A Yes, I was afraid of that.

Q All right. When was that ? When ?

A It began through --

Q (Interposing) When did you first hear of that attack ?

A I had that fear for the first time during the summer of 1940, because of the first conference I had with the Fuehrer at the Berghof on the 29 th of July.

Q Then from the military point of view, from that moment on, it was necessary for you to attack first, was it not ?

A After the political clarifying-work . Up to then, it had been a guess, nothing but a guess.

Q How could you afford to wait for the political clarifying work if you were afraid of an immediate attack ?

A It was that reason that made us only increase our defenses to begin with, until the spring of 1941. Until then, only defensive measures were instituted. Only in February of 1941 did we begin with the troop concentration for an attack.

Q Now, then, just one other question. I am not at all clear on this. During that attack, did you then advise that Germany attac first, or did you advise that Germany should not attack ? What was your advise ? You saw this danger; what did you do about it ?

A That problem, too, just like most others, was the subject of a written statement of mine made to the Fuehrer in which I drew his attention ti the tremendous consequences of such a decision, of which one knew, of course, how the campaign was begun, but of which no human being could imagine how it would end.

Q We have heard all that. I did not want to go into that. What I wanted to get at is this : You were afraid that Russia was going to attack. WIf that was true, why didn't you advise Germany to attack at once ? You were afraid Russia would attack, and jet you say you advised against moving into Russia. I do not understand.

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A That is not the case. I did not advise not to march into Russia; I merely said that if no other possibility exists, and if really there is not political way of doing away with that danger, then I, too, can only see the preventive attack as a possibility.

THE TRIBUNAL (Justice Biddle) : That is all. Thank you.

THE PRESIDENT : The defendant can return to the dock.

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THE PRESIDENT : Dr. Exner.

DR. EXNER : I have four witnesses whom I wish to bring before this Tribunal. But I want to start by making a request. With reference to lame leg which I am suffering from, may I leave it to my colleague Jahrreiss to question the witnesses, please ?

THE PRESIDENT: Yes, certainly, Dr. Exner.

Dr. Exner, the Tribunal wishes me to say that we allow another counsel to examine the witnesses as an exception to our general rule that only one counsel may appear in the court, and at the presentation of the case on behalf of the defendant. We will make this exception in your favor.

DR. JAHRREISS : In that case, with the permission of the Tribunal, I shall call the first witness, General Horst Freiherr von Buttlar Brandenfels.

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GENERAL HORST FREIHERR von BUTTLAR BRANDENFELS, a witness, took th stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your name, plc se?

A Horst Freiherr von Buttlar Brandenfels.

Q Will you repeat the oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pur truth, and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

BY DR. HERMAN JAHRREISS (Counsel for defendant Jodl).

Q Mr. Witness, were you in the Army Command Staff during the war?

A Yes.

Q During what period?

A From the 1 January 1942 until 15 November 1944. I was a member of the Armed Forces Command Staff.

Q What was your position there in the Staff?

A I was first a general staff officer of the Army, and I had in my capacity as department chief of the operational department of the Army.

Q I am going to have document shown to you No. PS-823, Exhibit RF 3! it is in your document book, second volume, page 158. Please, will you be good enough to have a look at it.

A Do you want me to read the whole document?

Q I want you to have a general picture of it. Who is the author o the document?

A It is written, the Armed Forces Command Staff, Department Q, Administry Group.

Q How far does that document connect with the defendant Jodl?

A The document has nothing at all to do with the defendant Jodl.

Q Then please will you look at the righthand top corner on the first page, there is an initial or line that reads as a "J"?

A That might be a mistake. If you will just refer to the initial appears at the end of that document, that is the initial of the Chief of

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Quartermaster Department, Oberst Pollock.

Q If you will look at page 2, then you will see two initials at the bottom?

A The first is carried out by the official of the document. I can recognize for certain it is Administrative Counsel Nichmenst's signature.

Q Do you mean the initial. I mean the top one?

A The top one? The bottom initial the signature of Oberst Pollo After the document was submitted to the Chief of the OKW it was returned to me. Then I initialed it again at the top, and then my mark was sent to the Quartermasters Department, that is the "Q" underlined at the top, and then it was again issued by the quartermaster chief, and then there is the date of 9th September, and he in turn marked it "Administrative Group." The actual author then signed or initialed the document again. I want to draw your attention to the fact this pertains to the war matter, and that this document in the corner shows Jodl was not really concerned with it. He had advised only the organization and the quartermaster department so far as that was concerned. There were several commitments that had to be made.

Q Just a minute, Mr. Witness, just a minute. I do not mind if you to lecture, but I want to also go ahead. There are marks in the margin of document, do you see them?

A Yes.

Q Is any one of them written by Jodl?

A No, they are both initialed with a "K" for Field Marshal von Keit

Q The French testimony shows these are marks made by Jodl, which re lates to prisoner of war affairs, and if I understand you correctly, you want to say that the letter "J" is not possible?

A About that, there is not a mark on the document which Jodl has ma It is not probable, for the reason that the jurisdiction of Jodl could have had nothing to do with this matter at all.

Q But is it correct, Mr. Witness, that the Quartermaster Department under Jodl's command?

A Actually, it is correct, but the Quartermaster Department, just I

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the Organization Department, had certain parts which the Attorney General had not dealt with, and which were dealt with by the head of the Department "Q", and dealt with by the department chief, but was working along with the OKW.

Q You said that this applies to prisoner of war question, is that true?

A In my opinion it does apply to prisoner of war affair, which I said applies to that Department "Q". The Department "Q" had in its main department that part where it supplies, and it also supervises the supplies, but to all appearances it came directly under OKW. The second department naturally appears as administrative -- military administration, and, the third department dealt with general questions, that is, such as quartermaster affairs and the laws, and questions of fact.

Q Then I have one more question on this organization. Did that department, the Armed Forces Command Staff, have anything to do with the Fuehrer's "HQ"?

A No, the organization department, for instance, was not located in the Fuehrer's HQ, but in that neighborhood in Berlin.

Q If I understand you correctly, that means that the business of the Department "Q" was conducted by Jodl, partly, with the Chief of OKW?

A Not in every case, but in a certain number of cases, yes.

Q But this question was partly so, is that correct?

A Yes, that is correct.

Q Mr. Witness, what position did you have at the beginning of the war?

A At the beginning of the war I was the second general staff officer in the Central Department of the General Staff of the Army.

THE INTERPRETER: Would you speak a little more slowly.

BY DR. JAHRREISS:

Q And what department did you have?

A My department dealt with the question of mobilization, and the office in the higher command, and the higher command level.

Q Did that apply to the general staff officer of the OKW?

A Yes, it applied to them, too.

Q General, do you know who was responsible for the command of the

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staff 1 October 1939, and who had been nominated then to be the chief of the Armed Forces Command Staff after that date?

A Yes, following the mobilization was the name of General von Sodenstern which had been proposed.

Q Do you want me to understand that in the event of a war after 1st October -- on the 5th or 6th, that Jodl would not have been chief of the Army Staff at all?

A I am not sure just to whom the new mobilization of 1939 and 1940 was said to be given, but that was dealing with the State.

MR. ROBERTS: I submit this testimony is not relevant to any issues in this case at all, and it may be somewhat interesting to know the answers that are submitted has any relevancy at all.

THE PRESIDENT: I don't quite understand what the relevancy of the evidence is at the moment.

DR. JAHRREISS: Mr. President, if the prosecution is right when they say that the defendant Jodl belongs to a group of conspirators for accomplishing the war, and if that group of conspirators had used the State as a means for their aims, I think the prosecution believes there must be some other peculiar order of the State when conspirators will exchange uncertainty with arranged date, and that is why it is important for the Tribunal to be presented with this.

THE PRESIDENT: Has he been given the date of this exchange, without going in on cross examination. He went to Vienna on a certain date, and came back at another date, and there has been no challenge of that.

DR. JAHRREISS: Mr. President, that is a different question. The defendant Jodl has said that this mobilization had appeared before 1st October as from the chief of the Armed Forces Command Staff. Now the witness says that this allegedly only applies up to the day of mobilization here.

THE PRESIDENT: Surely that is extraordinarily remote, Dr. You say as a matter of surmise that would have happened. That does not help us very much.

DR. JAHRREISS: Mr. President, the testimony of the witness is on the assumption that he is stating merely the person in this important posi-

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tion was disposed of in accordance with the routine so far as the State work was concerned, if that had been a pre-arranged schedule. May I present something further, please.

THE PRESIDENT: No, in the interest of time and an expeditious trial, the Tribunal rules you may not go into that.

BY DR. JAHRREISS:

Q Mr. Witness, if I now ask you about a certain field activity which y just mentioned, I believe it was because I assumed that you had particular expert knowledge of it, is that true, in that you just had official contact with combating the bandits?

A My department had had the handling of bandit affairs from late 1942, and practically, thinkable, and additional information were taken from my department from that date.

Q Are you familiar with the pamphlet on bandit fighting, of May 1942?

A Yes, that was new to my department.

Q Was it the third ruling of that department that winter?

A In the Autumn of 1942 there was an incomplete instruction regarding combatting the guerrillas or bandits. At that time we had comparatively little experience, and since the guerrilla fighting had not been expected during peace time, it was natural that the new experience would have to be given some effect.

Q And this applied also with the bandit fighting in the east and in the southeast?

A Yes.

Q And in connection with it the prosecution had stated it was a very definite conception on their part. Is it quite often true that one can speak about a bandit war as it is fought with bandit equipment?

A In accordance with the extent of the guerrilla fighting, or bandit fighting, it must be limited to its own location. That is a correct question.

Q Does that mean that bandit fighting did not go beyond the general conception of guerrilla warfare, which it might have had?

A So far as the State is concerned, yes. The method, no.

Q What do you mean by extent, or degree?

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A I mean by extent the overwhelming extent of what is then effected by banditry fighting.

Q Was it something unusual, the overwhelming fighting, do you mean from a human point of view, as well?

A The guerrilla fighting both in its extent and the question of human point of view concerning it was most unusual.

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A. What I mean by extent is the territorial extent of the zones affected by bandit fighting.

Q. Was it something unusual, territorially speaking, or do you mean from the human point of view as well?

A. Guerrilla fighting, both in its territorial extent as well as the question referring to the human beings concerned with it, was most unusual.

Q. Do you know, Mr. Witness, whether these bandits or guerrilla groups in the East and Southeast contained many Jews?

A. I can't remember that, amongst the hundreds of reports which I have had about guerrilla fighting, there was the mention of Jews at all. If there were Jews in these units, then it can only have been the case to a very limited extent.

Q. Well the, the testimony related in this court room that this guerrill fight had been conducted for the extermination of Jews, is that true?

A. I have never heard anything about that.

Q. Or perhaps the extermination of Slava?

A. Here again, I have never heard as much as a hint of such a situation. That interpretation would have been quite contrary to the intentions of the military leaders.

Q. Why?

A. The Military Command had a very definite interest in seeing a peaceful country behind every front and a productive population; and every aim and every measure which had that target was always appreciated by the Military Command. Every soldier whom we had to use in bandit fighting was urgently needed by us at the front.

Q. Was the policy in the East carried out in the manner in which the Armed Forces leaders wanted it for their purposes?

A. No doubt that was not the case, because the Armed Forces particularly in the interest of their volunteer units, would have liked ot see a different policy in the East. We ourselves tried to carry on a bloodless pacification even amongst the guerrillas by using our own system and methods. There

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Price

considerable propaganda campaigns were put into practice which were meant to cause the guerrillas to stop fighting. In certain cases there were special negotiations with individual guerrilla units and, though limited to certain occasions and periods, they were most successful.

Q. Do you know General von Pannewitz?

A. Yes. General von Pannewitz was the Commander of the 1st Kosack Division.

Q. When, please?

A. It must have been during 1943.

Q. Is it correct that this General, as the Commander of that 1st Voluntary Kosack Division, had one complaint to the OKW about difficulties he was having in his division?

A. Yes. General von Pannewitz is an old regimental comrade of mine and he visited me at the headquarters, and on that occasion, during the summer of '43 or maybe during the autumn, he told me in detail about the state of affair the position and the difficulties which he was experiencing, particularly because of the Eastern policy of the government regarding the morale of his unit At that time he was complaining particularly about the fact that the government policy had no national aims for his Division, and he had certain further complaints about difficulties which the dependents had who were partly in trek or were to be settled.

Q. Did Jodl concern himself with that episode?

A. Yes. At the time, after I had the visit, I reported the conversation to the Colonel General and I asked him, in the interests of our voluntary unit to exercise his influence.

Q. Influence on whom do you mean?

A. Influence on the Fuehrer.

Q. But you told me that this wasn't any of Jodl's tasks --

THE PRESIDENT: What is the relevancy of this, about some General who commanded a Kosack Division and that he had difficulties with morale? What has that got to do with this case?

DR. JAHRREISS: Mr. President, these are a few preparatory questions and the actual question now comes. It is a question of jurisdiction, responsibili I was just

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about to ask the witness the decisive question.

THE PRESIDENT: What relevancy have the preparatory questions go to the decisive question? How can a visit of this General have anything to do with it? What is the decisive question?

DR. JAHRREISS: Mr. President, if I am to give you the reason for that, then I will have to tell the witness what I want him to tell me. Then my question is a suggestive and leading one.

THE PRESIDENT: Well, that is not an unusual thing in this Court.

DR. JAHRREISS: Yes, but then I didn't want to make that mistake.

THE PRESIDENT: Well, go on. The Tribunal hopes that you won't take up too much time over these preliminary questions which are leading to decisive ones.

DR. JAHRREISS: I am sorry, but I didn't understand.

THE PRESIDENT: I said, the Tribunal hopes that you will not take up too much time with these preparatory questions before the decisive one.

DR. LATERNSER: Dr. Laternser, counsel for the General Staff and the OKW. Mr. President, I can abbreviate the questions I want to put to the witness a great deal because in this case --

THE PRESIDENT: Dr. Laternser, why are you at the microphone?

DR. LATERNSER: I think, My Lord, Dr. Jahrreiss said he had no further questions, that he was finished.

DR. JAHRREISS: Mr. President, there was a misunderstanding. The witness has, in fact, just answered my question.

THE PRESIDENT: He has answered it, has he?

DR. JAHRREISS: Yes, he has answered it. I merely wanted to underline it a bit more but then you did not want me to.

THE PRESIDENT: Then you have finished, have you, Dr. Jahrreiss?

DR. JAHRREISS: Yes. I now have no further questions to the witness.

DR. LATERNSER: Mr. President, I can abbreviate the examination a great deal because I have an affidavit from the witness which he made on the 20th of May, 1946. If this is my turn, or when my turn comes, I propose to submit that affidavit to the Tribunal so that I can't then be accused of not having ascertained the facts when the witness was available in the Court room. I now

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propose to ask the witness at once whether the contents of that affidavit of the 20th of May, 1946 are correct.

BY DR. LATERNSER:

Q Mr. Witness, are the contents of the affidavit you have given me, dated the 20th of May, 1946, correct?

A They are.

Q Thank you. Mr. Witness, do you know General Hausinger?

A Yes, I do.

Q The prosecution, in their case against the General Staff, have submitted Affidavit No. 20, U.S.A. Exhibit No. 564, and on Page 2, Figure 4, this General is making the following statement; I quote: "It has always been my personal view that the treatment of civilians in operational areas and the methods of the bandit fighting in the operational zone was a useful opportunity to the political and military leaders to carry out their aims; that is to say, to bring about the systematic reduction of Slavs and Jews, I want to ask you now, can you explain how General Hausinger could have arrived at that view?

A I have worked closely with General Hausinger and quite often I have talked to him about the question of the guerrilla fighting. As far as I am concerned, he has never said anything to me which might express this view and I can not explain this statement of his because it is opposed to the principles of the military leaders regarding the conducting of the guerrilla war.

Q Thank you. Why was the jurisdiction over the bandit fighting in the East in 1943, as well as in Italy during 1943 and '44, transferred to Himmler by order of the Fuehrer?

A It was always the view of the Fuehrer, that the guerrilla war was predominantly a task for the police and

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that police forces should be more suitable to carry it through then the sometimes somewhat aged security unit of the Army, such as we could place at the disposal of that task. Just how far Himmler was keen to create a new position of power in that connection, that I don't know, how far he might have hypnotized the Fuehrer about that.

Q What was the attitude of the Armed Forces Command Staff of the OKW regarding the Fuehrer order?

A It has got to be emphasized first of all in this connection that s far as operational areas were concerned, there was no change. Operational areas, until the end, and as far as guerrilla warfare was concerned, too, cam under the orders of the Army Commanders. In the remaining territory the Arm Forces Command Staff were not altogether in agreement with this new arrangemer because we were hoping that the Reichsfuehrer SS would be in a position to draw on his reserves, unknown as they were to us, and use them in these zones so that we would get a few men out.

Q Do you remember, Witness, that the Commander Southwest urged that he should be excepted from this transfer of jurisdiction from him to Himmler?

A General Westphal and I had a few conversations about that case and I consider it possible that he might have made such a suggestion at that time.

Q Did you say that you yourself did discuss that with the Commander Southwest?

A Yes, I talked to the Chief.

Q As you have just said, you were in the Central Department before the war, the Central Department of the Army General Staff, and I know there, too, the higher positions were being dealt with. Now I want to ask you what the principles were on the strength of which Army commanders were appointed?

A These appointments took place in accordance with ability and seniority whereas peace time appointments formed the skeleton of the war time organization.

Q Were these appointments of senior officers carried out strictly on military principles?

A These nominations took place entirely on the strength of military considerations and retired officers, some of whom I am convinced left because of political pressure, were placed in responsible positions for the event of

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a mobilization. I want to give you an example: General von Leeb, General von Krestenstein, General von Kleist, Colonel General von Hammerstein.

Q And these officers you have just mentioned, had they already been retired before the outbreak of war but were they planned for higher positions in the event of the outbreak of war?

A Yes.

Q The Central Department which had to deal with these positions, did it ever know that military leaders had formed a group which had for its aim the carrying out of aggressive wars and of disregarding International Law in such event?

A Such formation of a group was unknown in the Central Department. I can state in this connection that during the years of '37 to '39 quite a number of General Staff officers visited myself and the other officials in the same department and talked to us. The majority of these officers were senior officers of the unit staff and they were, therefore, the confidential advisors of the Commanders. These officers, just like their senior officers had fought in World War I, and the only opinion they ever gave to us was that the German nation should be saved a second war. In spite of all positive points of view about the Fuehrer's successes, there was a certain concern about the policy and particularly the rapid rearmament of the Armed Forces, which of course made careful work difficult. After the negotiations at Nurnberg, the confidence increased a great deal and it was generally the opinion of these officers that the Fuehrer would continue to be successful in preventing a war, keeping the peace.

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Q What was the attitude of the high officers after the Munich Agreement?

A After the Munich Agreement, it was my view, on the strength of these conversations with General Staff officers, that there was a general conviction that the Fuehrer, with his policies, would continue to preserve the peace. I remember that as late as 25 or 26 August, I saw the Fuehrer at H.Q. Zossen, where I had a conversation with several officers, who were of the opinion at that time that a war would not occur and that it was only necessary to make the Fuehrer's political intentions possible by having the troops firmly under control so that there would not be a political misfortune if the guns went off.

Q I think that is enough as far as this question is concerned.

Now, regarding the Ardennes offensive in December 1944, at what time were the preparations for that offensive begun?

THE PRESIDENT: How can that have any relevance after about five years of war?

DR. LATERNSER Mr. President, I want to put to the witness who of the supreme commanders, and beginning when, had knowledge of that offensive, and that is important. It is important to ascertain how the cooperation amongst that group worked. Please, will you allow me that question?

THE PRESIDENT: Very well.

BY DR. LATERNSER:

Q When were the preparations for the Ardennes offensive begun?

A As far as I can remember, the preparations began about September.

Q Who -- or rather -- when were the supreme commanders informed before the beginning of the offensive who were not participants?

A The last question I can answer with No. The first question, as far as the date is concerned, I cannot give an answer to, but I do know that there had been troop movements in the proposed zone for that offensive, which had been ordered by the highest commanding officers before the commander in the West, who was responsible, was informed, and that he, therefore, was making frequent inquiries at my department asking an explanation of these movements.

Q That is to say that the supreme commander in the West, who later on had to direct the offensive, was not informed about troop movements and movements of divisions for that purpose that took place in his very territory?

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A Yes, that is the situation. Later on, of course, he was informed.

DR. L. TERNSER: Thankyou. I have no further questions.

THE PRESIDENT: The Tribunal willadjourn.

(The Tribunal adjourned until 8 June 1946, 1000 hours).